

**STATE OF MICHIGAN  
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

**Before the Director of the Department of Insurance and Financial Services**

In the matter of:

**Department of Insurance and Financial Services**

**Enforcement Case No. 14-12205**

**Agency No. 14-063-L**

Petitioner,

v

**Roy Wesley Gardner**

System ID No. 0559355

Respondent.

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Issued and entered  
on February 5, 2015  
by **Randall S. Gregg**  
Deputy Director

**FINAL DECISION**

**I. Background**

Roy Wesley Gardner (hereinafter Respondent) is a licensed resident insurance producer. The Department of Insurance and Financial Services (DIFS) received information that Respondent violated Section 249(a) of the Michigan Insurance Code (Code), MCL 500.249(a) by failing to respond to repeated telephone calls and emails by DIFS Staff attempting to investigate a complaint. On August 26, 2014, DIFS issued a Notice of Opportunity to Show Compliance (NOSC) alleging that Respondent had provided justification for revocation of licensure and other sanctions pursuant to Sections 1239(1) and 1244(1)(a-d) of the Code, MCL 500.1239(1) and 500.1244(1)(a-d). Respondent failed to reply to the NOSC.

On December 1, 2014, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent at the address he is required to maintain with DIFS. The Order for Hearing required Respondent to take one of the following actions within 21 days: (1) agree to a resolution of the case, (2) file a response to the allegations with a statement that Respondent planned to attend the hearing, or (3) request an adjournment. Respondent failed to take any of these actions.

On January 8, 2015, DIFS Staff filed a Motion for Final Decision. Respondent did not file a reply to the motion. Given Respondent's failure to respond, Petitioner's motion is granted.

The Administrative Complaint, being unchallenged, is accepted as true. Based upon the Administrative Complaint, the Director makes the following Findings of Fact and Conclusions of Law.

## II. Findings of Fact and Conclusions of Law

1. Pursuant to Executive Order 2013-1, all authority, powers, duties, functions, and responsibilities of the Commissioner of the Office of Financial and Insurance Regulation (Commissioner) have been transferred to the Director of DIFS.
2. At all relevant times, Respondent was a licensed resident insurance producer, with qualifications in Accident and Health, Life, Casualty, Property, and his license is currently active.
3. On May 13, 2013, DIFS' Office of Consumer Services received a complaint concerning messages that Respondent left on the Complainant's voicemail regarding an Allstate auto insurance quote that the Complainant neither had knowledge of nor had requested.
4. On May 20, 2013, DIFS' Office of Consumer Services sent a letter of inquiry to Respondent at the following address on file:

Roy Wesley Gardner  


No response was received.

5. On August 26, 2014, a NOSC was mailed by first class mail to Respondent at the same address. No response was received.
6. On September 15, 2014, DIFS Staff called Respondent at his home phone number of record, and left him a message to call back and respond to the letters of inquiry that were previously mailed to his address of record. Respondent did not return the phone call.
7. On September 26, 2014, DIFS Staff verified Respondent's address of record via the Michigan Office of the Secretary of State database.
8. On November 7, 2014, DIFS Staff emailed Respondent at the email address he had previously provided to DIFS. The email informed Respondent that DIFS had been trying to contact him and requested that he reply. No response was received.
9. As a licensee, Respondent knew or had reason to know that Section 249(a) of the Code, MCL 500.249(a), states that:

For the purposes of ascertaining compliance with the provisions of the insurance laws of the state or of ascertaining the business condition and practices of an insurer or proposed insurer, the

commissioner, as often as he deems advisable, may initiate proceedings to examine the accounts, records, documents and transactions pertaining to:

(a) Any insurance agent, surplus line agent, general agent, adjuster, public adjuster or counselor.

10. Respondent violated Section 249(a) of the Code, MCL 500.249(a), by failing to respond to the letters mailed by DIFS Staff and the voicemail message left by DIFS Staff.
11. As a licensee, Respondent knew or had reason to know that Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), states that:
  - (1) In addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions, and the commissioner shall refuse to issue a license under section 1205 or 1206a, for any 1 or more of the following causes:

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  - (b) Violating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner.
12. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(b) and 1244(1) of the Code, by failing to respond to repeated inquiries from DIFS Staff.
13. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order revocation of licensure.
14. On December 1, 2014, true copies of an Administrative Complaint, Order for Hearing and Notice of Hearing were mailed by first class mail to Respondent at his address of record on file with DIFS.
15. DIFS Staff searched other databases for alternative addresses and emailed true copies of the previously listed documents to Respondent at his email address.
16. DIFS has received no response from Respondent.
17. DIFS Staff have made reasonable efforts to serve Respondent and have complied with MCL 500.1238(2) and R 500.2107(4).
18. Respondent has received notice and has been given an opportunity to respond and appear and has not responded or appeared.

19. Respondent is in default and the Petitioner is entitled to have all allegations accepted as true.

### III. Order

Based upon the Respondent's conduct and the applicable law cited above, it is ordered that:

1. Respondent shall cease and desist from violating the Code.
2. Respondent shall immediately cease and desist from engaging in the business of insurance.
3. Respondent has violated MCL 500.249(a) and has provided justification for sanctions pursuant to MCL 500.1239(1)(b). Pursuant to MCL 500.1244(1)(d), Respondent's resident insurance producer license (System ID No. 0559355) is **REVOKED**.

Annette E. Flood, Director  
For the Director:



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Randall S. Gregg, Deputy Director