

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
OFFICE OF FINANCIAL AND INSURANCE REGULATION  
Before the Commissioner of Financial and Insurance Regulation

Carliss Dykes,  
Petitioner

v

Office of Financial and Insurance Regulation,  
Respondent

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Case No. 11-844-L  
Docket No. 2011-1350

Issued and entered  
this 1<sup>st</sup> day of May 2012  
by Randall S. Gregg  
Deputy Commissioner

**FINAL DECISION**

**I. BACKGROUND**

This case concerns the application of Carliss Dykes (Petitioner) for a nonresident insurance producer license. Petitioner's application was denied by the Office of Financial and Insurance Regulation staff.

Petitioner challenged the license denial. A hearing was scheduled for February 29, 2012. The Petitioner failed to appear for the hearing. The hearing proceeded in Petitioner's absence. The administrative law judge issued a Proposal for Decision recommending that the license denial be upheld.

**II. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

On his application the Petitioner answered "No" to the question, "Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?"

In fact, the Petitioner had been the subject of an administrative action brought by the National Association of Securities Dealers (NASD) in which the Petitioner received a suspension of his securities license and a \$10,000.00 fine.

The following portions of section 1239(1) of the Michigan Insurance Code (Code), MCL 500.1239(1), are relevant in determining whether the Petitioner should be granted a license:

(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:

\* \* \*

(a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application.

\* \* \*

(c) Obtaining or attempting to obtain a license through misrepresentation or fraud.

\* \* \*

(h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

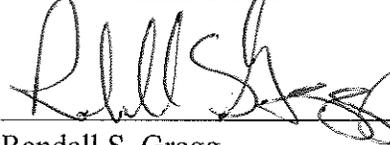
The Commissioner finds that the Petitioner engaged in dishonest business practices in his conduct of securities business. By failing to disclose the NASD disciplinary action, Petitioner submitted an incorrect, misleading and materially untrue answer on his producer license application. This conduct constitutes an attempt to obtain a license through misrepresentation. These findings require that the Petitioner's Michigan license application be denied. The Proposal for Decision is attached. The findings and recommendation in the Proposal for Decision are adopted.

### III. ORDER

The refusal to issue an insurance producer license to Carliss Dykes is upheld.

R. Kevin Clinton  
Commissioner

For the Commissioner:



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Randall S. Gregg  
Deputy Commissioner

STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

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In the matter of	Docket No.	2011-1350
Carliss Dykes, Petitioner	Agency No.	11-844-L
v Office of Financial and Insurance Regulation, Respondent	Agency:	Office of Financial & Insurance Regulation
	Case Type:	Intent to Deny Refusal to License

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Issued and entered  
this 1<sup>st</sup> day of March, 2012  
by Renee A. Ozburn  
Administrative Law Judge

**PROPOSAL FOR DECISION**

**PROCEDURAL HISTORY**

On May 18, 2011, Carliss Dykes (Petitioner) submitted an application for a non-resident insurance producer license. On August 3, 2011, the Office of Financial and Insurance Regulation (OFIR/Respondent) issued a Notice of License Denial and Opportunity for Hearing pursuant to its authority under the Michigan Insurance Code (Code), 1956 PA 218, as amended, MCL 500.100 *et seq.* On August 30, 2011, Mr. Dykes filed a Petition for Contested Case Hearing. On September 16, 2011, an Order Referring Petition for Hearing and Order to Respond was issued.

An October 4, 2011, a Notice of Hearing was issued scheduling a contested case hearing to begin on November 14, 2011. By Order dated October 26, 2011, the November 14, 2011 hearing was adjourned and a telephone prehearing conference was scheduled for December 12, 2011. The prehearing was held as

scheduled. Attorney Elizabeth Bolden appeared on behalf of Respondent. Petitioner did not participate in the prehearing. An Order Following Prehearing Conference issued on December 14, 2011, scheduled the contested case hearing to commence on February 29, 2012.

All Orders and Notices have been mailed to the Petitioner at his last known address of record: [REDACTED]. The Notice of Hearing informs parties that failure to appear for a hearing may result in a default judgment or decision against the non-appearing party.

On February 29, 2012, at the time scheduled for hearing, Attorney Bolden was present and ready to proceed on behalf of Respondent. Petitioner did not appear and no one appeared on his behalf. There were no requests for adjournment of the February 29, 2012 hearing. The undersigned Administrative Law Judge deemed that the Petitioner had been duly served with notice and the hearing could proceed in his absence pursuant to Section 72 of the Administrative Procedures Act, 1969 PA 306, as amended, (APA) MCL 24.201 *et seq.* Respondent motioned to default Petitioner pursuant to Section 78 of the APA. The undersigned Administrative Law Judge granted a default. A default judgment constitutes a decision that allegations in the Notice of License Denial are true as alleged.

#### **ISSUES AND APPLICABLE LAW**

The issue is whether the Notice of License Denial should be affirmed pursuant to Code Sections 1206a and 1239(1)(a),(c) and (h) which provide:

**500.1206a Nonresident insurance producer license; requirements; verification of status; change of address; nonresident surplus lines insurance producer license; nonresident limited lines insurance producer.**

Sec. 1206a.

(1) Unless denied licensure under section 1239, a nonresident person shall receive a nonresident insurance producer license if he or she meets all of the following:

(a) Is currently licensed as a resident and in good standing in his or her home state.

(b) Has submitted the proper request for licensure and has paid the applicable fees required by section 240.

(c) Has submitted or transmitted to the commissioner the application for licensure that the person submitted to his or her home state or a completed uniform application as required by the commissioner.

(d) The person's home state awards nonresident producer licenses to residents of this state on the same basis.

(2) The commissioner may verify the insurance producer's licensing status through the producer database maintained by the national association of insurance commissioners or its affiliates or subsidiaries.

(3) A nonresident insurance producer who moves from 1 state to another state or a resident insurance producer who moves from this state to another state shall file a change of address and provide certification from the new resident state within 30 days of the change of legal residence. No fee or license application is required.

(4) Notwithstanding any other provision of this chapter, a person licensed as a surplus lines insurance producer in his or her home state shall receive a nonresident surplus lines insurance producer license pursuant to subsection (1). Except as otherwise provided in subsection (1), this section does not otherwise amend or supersede any provision of chapter 19.

(5) Notwithstanding any other provision of this chapter, a person licensed as a limited line credit insurance or other type of limited lines insurance producer in his or her home state shall receive a nonresident limited lines insurance producer license, pursuant to subsection (1), granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of this subsection, limited lines insurance is any authority granted by the home state that restricts the authority of the license to less than the total authority prescribed in the associated major lines under section 1206(1)(a) to (f).

**500.1239 Probation, suspension, or revocation of insurance producer's license; refusal to reissue; causes; civil fine; notice of license denial; hearing; license of business entity; penalties and remedies.**

Sec. 1239.

(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:

(a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application.

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(c) Obtaining or attempting to obtain a license through misrepresentation or fraud.

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(h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

### **FINDINGS OF FACT**

Pursuant to a decision defaulting Petitioner, the following facts asserted in the August 3, 2011 Notice of Denial are deemed to be true:

Applicant responded "no" on the application for the question asking, "Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?"

- On May 9, 2007, applicant entered into a settlement order with the NASD consenting to the entry of findings, a \$10,000 fine and suspension from associating with any NASD member for three months.
- Applicant, in a supervisory capacity, knowingly instructed an unregistered employee to contact customers and discuss investments with them, assigned the individuals' cases to registered representatives in the firm even though they had no involvement in the transactions, and had one of the registered representatives give the unregistered individual a personal check in the amount of \$2,000 as compensation for the sale of annuities.

*(Therefore)* Applicant has provided materially untrue information in the license application evidencing intent to mislead, has attempted to obtain a license through misrepresentation, and demonstrated the use of fraudulent, coercive, or dishonest practices or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business.

### **CONCLUSIONS OF LAW**

Having granted a default judgment, the undersigned Administrative Law judge concludes that the aforementioned findings of fact describe conduct indicating that Petitioner has provided misleading, incomplete or materially untrue information in the license application in violation of Code Section 1239(1)(a), attempted to obtain a license through misrepresentation in violation of Code Section 1239(1)(c) and demonstrated fraudulent, coercive or dishonest practices or incompetence, untrustworthiness or financial irresponsibility in violation of Code Section 1239(1)(h). Therefore, Petitioner has committed acts that are grounds for denial under Code Section 1239 and the Commissioner may deny licensure under Code Section 1206a.

### **PROPOSED DECISION**

The Respondent recommends, and the undersigned Administrative Law Judge concurs, that the Commissioner should affirm the denial of Petitioner's application for a non-resident insurance producer license in Michigan.

**EXCEPTIONS**

The parties may file Exceptions to this Proposal for Decision within 20 days after it is issued. Exceptions should be addressed to the Office of Financial and Insurance Regulation, 611 West Ottawa Street, 3<sup>rd</sup> Floor, P.O. Box 30220, Lansing, Michigan 48909; Attention: Dawn Kobus.

  
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Renee A. Ozburn  
Administrative Law Judge