

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

Before the Director of the Department of Insurance and Financial Services

In the matter of:

CHAVONNE SIMMONS
System ID No. 0650373

Enforcement Case No. 15-12462

Respondent.
_____ /

Issued and entered
on April 1st, 2015
By Teri L. Morante
Chief Deputy Director

**ORDER OF SUMMARY SUSPENSION, NOTICE OF OPPORTUNITY FOR HEARING,
AND NOTICE OF INTENT TO REVOKE**

Pursuant to the Section 1242 of the Michigan Insurance Code (Code), MCL 500.1242, and Section 92 of the Michigan Administrative Procedures Act (APA), MCL 24.292, and based upon the attached FINDINGS, including that protection of the public health, safety and welfare requires emergency action,

IT IS THEREFORE ORDERED that:

1. The insurance producer license and authority of Respondent are **SUMMARILY SUSPENDED**.
2. A copy of this Order shall be immediately served upon Respondent. This order shall be effective upon the date of service.
3. If requested by Respondent, a hearing on this matter shall be held within a reasonable time, but not later than 20 calendar days after service of this Order, unless Respondent requests a later date. The hearing shall address the following issues:
 - a. Whether the suspension should be continued or withdrawn.
 - b. Whether Respondent's license should be revoked.
4. If a hearing is requested, an administrative law judge from the Michigan Administrative Hearing System shall preside over any such hearing.

5. The Director retains jurisdiction of the matters contained within and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate.


Teri L. Morante
Chief Deputy Director

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Pursuant to Executive Order 2013-1 the Director has assumed the statutory authority and responsibility, granted to the Commissioner by the Insurance Code of 1956, MCL 500.100 *et seq.*, to exercise general supervision and control over persons transacting the business of insurance in Michigan.
2. At all relevant times, Respondent Chavonne Simmons (System ID No. 0650373) was a licensed resident insurance producer with qualifications in casualty, life, and property and was authorized to transact the business of insurance in Michigan.
3. Allegiance Insurance Agency VII, Inc. (System ID No. 0039113) *d/b/a* Advasure Insurance Agency (referred to as Advasure), is a licensed resident insurance producer agency with qualifications in property and casualty and is authorized to transact the business of insurance in Michigan. Its principal place of business is 13600 E. 8 Mile Rd., Ste. C, Detroit, MI 48205.
4. Based upon the information as set forth below, protection of the public health, safety, and/or welfare requires emergency action.
5. On or about December 2, 2014, the Michigan Department of Insurance and Financial Services (DIFS) began an investigation into Respondent's business activities after receiving information from a branch office of the Michigan Secretary of State (SOS) regarding receipt of fraudulent State of Michigan Certificates of No-Fault of Insurance issued by Simmons.
6. More specifically, on November 13, 2014, BW visited Advasure to purchase insurance for his vehicle. Simmons assisted with his transaction and solicited the purchase of a 6-month policy offered through Everest National Insurance Company (Everest).
7. Simmons verbally told BW that \$210 was needed as a down payment. BW paid \$210 in cash to Simmons/Advasure. Simmons provided him with a receipt of payment showing that "\$210" cash was paid for "Arrowhead Insurance¹" for Policy/Contract "XXXXX9321."

¹ Effective April 1, 2013, Everest Security Company (a subsidiary of Everest National Insurance Company) transferred administration of its personal auto insurance business to Arrowhead General Insurance Agency, Inc. Arrowhead manages the distribution of the Everest products and services through insurance agents located in Michigan like Advasure.

8. In exchange for the premium paid, Simmons provided BW with a State of Michigan Certificate of No-Fault Insurance indicating BW's vehicle was insured with "Everest National Insurance Company" under policy number "XXXXXX9321" with an effective date of "11/13/2014" and expiration date "05/13/2015." The certificate listed the agency/company issuing the certificate as "Advasure" with the telephone number of "313-521-0300." BW used the certificate to register his vehicle with the SOS.
9. In December 2014 the SOS cancelled BW's registration and plates after learning BW's insurance was invalid. BW provided the SOS with the certificate of insurance Simmons had given and the SOS representative attempted to verify the information. The SOS representative contacted Advasure at the telephone number on the certificate and the agent told the representative the policy was issued by Advasure for BW and that the policy was in force. However, when the SOS representative contacted the insurer, he was told that while the policy was a valid policy number, it was not for BW or BW's vehicle. The SOS refused to accept BW's proof of insurance.
10. A DIFS investigator met with Simmons at Advasure to discuss BW's insurance transaction and to obtain the records that are required by statute to be kept by the Respondent and Advasure documenting the insurance transaction. Respondent was not able to provide a signed insurance application, nor was she able to produce receipts detailing how much insurance premium had been paid by BW and/or received by Advasure.
11. DIFS' investigation revealed that at no time did Everest receive an insurance application or premium payment for BW. BW's vehicle was not insured and all the information contained on the certificate of insurance provided to him was false and fraudulently created by Simmons at Advasure.
12. In a second transaction reported by the SOS, on November 18, 2014, SK was issued a fraudulent certificate of insurance. In exchange for the premium paid, Simmons provided SK with a State of Michigan Certificate of No-Fault Insurance indicating SK's vehicle was insured with "Everest National Insurance Company" under policy number "XXXXXX9327" with an effective date of "11/18/2014" and an expiration date "05/18/2015." The certificate listed the agency/company issuing the certificate as "Advasure" with the telephone number of "313-521-0300." SK used the certificate to register his vehicle with the SOS.
13. As with BW's transaction, the SOS representative contacted Advasure at the telephone number on the certificate and the agent told the representative the policy was issued by Advasure for SK and that the policy was in force. However, when the SOS representative contacted the insurer, he was told that while the policy was a valid policy number, it was not for SK or SK's vehicle.
14. A DIFS investigator met with Simmons at Advasure to discuss SK's insurance transaction and to obtain the records that are required by statute to be kept by the Respondent and

- Advasure documenting the insurance transaction. Respondent was not able to provide a signed insurance application, nor was she able to produce receipts detailing how much insurance premium had been paid by SK and/or received by Advasure.
15. DIFS' investigation revealed that at no time did Everest receive an insurance application or premium payment for SK. SK's vehicle was not insured and all the information contained on the certificate of insurance provided to him was false and fraudulently created by Simmons at Advasure.
 16. On or about November 13, 2014, Advasure issued three (3) State of Michigan Certificates of No-Fault Insurance to RD purporting to insure a Lincoln, a Mercedes and a Corvette under policy number "XXXXXX9322." RD visited a SOS branch office and used the certificates to register all three of his vehicles. The SOS later issued plate cancellations for all three vehicles after determining the insurance was invalid.
 17. On January 17, 2015, RD visited the SOS to inquire about the plate cancellations and to provide the certificates of insurance he had received from Advasure. The SOS representative contacted Advasure at the telephone number on the certificates to verify policy information. The SOS representative spoke with Simmons who indicated that she wrote policy XXXXXX9322 for RD and that the policy was valid on dates he registered his vehicles.
 18. A DIFS investigator met with Simmons at Advasure to discuss RD's insurance transaction and to obtain the records that are required by statute to be kept by the Respondent and Advasure documenting the insurance transaction. Respondent was not able to provide a signed insurance application, nor was she able to produce receipts detailing how much insurance premium had been paid by RD and/or received by Advasure.
 19. DIFS' investigation revealed that at no time did Everest receive an insurance application or premium payment for RD for the period effective 11/13/2014 – 05/13/2015. RD's vehicles were not insured and all the information contained on the certificates of insurance provided to him was false and fraudulently created by Simmons at Advasure.
 20. Finally, the SOS reported to DIFS that it had received another fraudulent State of Michigan Certificate of No-Fault Insurance issued by Advasure on November 29, 2014, to CJ indicating CJ's vehicle was insured with "Everest National Insurance Company" under policy number "XXXXXX62231" with an effective date of "11/29/2014" and an expiration date "05/29/2015." The certificate listed the agency/company issuing the certificate as "Advasure" with the address of "13600 E. 8 Mile Rd."
 21. CJ thereafter used the certificate of insurance to register his vehicle, but later received a plate cancellation from the SOS for having an invalid proof of insurance.
 22. As with the other transactions, the SOS representative contacted Advasure and spoke with Simmons. She told the representative that the policy was issued by Advasure for CJ and

22. As with the other transactions, the SOS representative contacted Advasure and spoke with Simmons. She told the representative that the policy was issued by Advasure for CJ and that the policy was in force. However, when the SOS representative contacted the insurer, he was told that while the policy was a valid policy number, it was not for CJ or CJ's vehicle.

23. To further assist CJ at the SOS, Simmons faxed to the SOS a statement on Advasure letterhead that read:

“On December 1, 2014, CJ had an active insurance policy which was purchased on 11/29/2014 for a 1997 GMC Suburban. The policy was still in effecton (sic) 12/1/2014. /s/ Chavonne Simmons”

None of these statements were true.

24. DIFS' investigation revealed that at no time did Everest receive an insurance application or premium payment for CJ. CJ's vehicle was not insured and all the information contained on the certificate of insurance provided to him was false and fraudulently created by Simmons at Advasure.

A. Unappointed Activity – MCL 500.1208a(1)

25. Respondent knew or should have known that only a licensed insurance producer appointed by the insurer can act as an agent of the insurer and bind coverage for that insurer. MCL 500.1208a(1).

26. Respondent violated the Code and provided justification for licensing sanctions when she solicited automobile insurance policies and purportedly bound coverage for Everest and was not properly appointed by Everest.

B. Breach of Agent's Fiduciary Responsibility – MCL 500.1207(1)

27. Respondent knew or should have known that Section 1207(1) of the Code, MCL 500.1207(1), provides that an agent shall be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a fiduciary capacity to the person or insurer to which it is owed is prima facie evidence of a violation of the agent's fiduciary responsibility.

28. Respondent Simmons violated Section 1207(1) of the Code, MCL 500.1207(1), when she accepted funds in her capacity as an agent and failed to remit those funds in a timely manner to the persons or entities to which they were owed.

C. Failure to Keep Accurate Records of Premium Funds Received in the Course of Insurance Business and Failure to Keep Accurate Records of Insurance Transactions – MCL 500.249, 500.1207(2)

29. Respondent knew or should have known that Section 249 of the Code, MCL 500.249, provides that for the purposes of ascertaining compliance with the provisions of the insurance laws of the state, the Director, as often as she deems advisable, may initiate proceedings to examine the accounts, records, documents and transactions pertaining to any insurance agent.
30. Respondent also knew or should have known that Section 1207(2) of the Code, MCL 500.1207(2), provides that an agent shall use reasonable accounting methods to record funds received in his or her fiduciary capacity including the receipt and distribution of all premiums due each of his or her insurers. An agent must record return premiums received by or credited to him or her which are due an insured on policies reduced or canceled or which are due a prospective purchaser of insurance as a result of a rejected or declined application. Records required by this section must be open to examination by the Director.
31. Respondent failed to produce accounts, records, documents and transactions pertaining to insurance transactions for examination by the Director pursuant to Section 249 of the Code.
32. Respondent violated Section 1207(2) of the Code when she failed to produce accounts, records, documents, and transactions pertaining to insurance transactions.
33. Respondent violated Section 1207(2) of the Code when she failed to use reasonable accounting methods to record premium funds received in her fiduciary capacity.
34. Respondent violated Section 1207(2) of the Code when she failed to provide accurate receipts to insureds detailing distribution of the money received.

D. Improperly Withholding, Misappropriating, or Converting Money or Property Received in the Course of Carrying Out the Business of Insurance – MCL 500.1239(1)(d)

35. Respondent knew or should have known that Section 1239(1)(d), MCL 500.1239(1)(d), provides that the Director may take action against an insurance producer who improperly withholds, misappropriates, or converts any money or property received in the course of carrying out the business of insurance.
36. Respondent improperly converted money received as payment for insurance premium when she diverted money meant for insurance premiums to other uses.

E. Intentional Misrepresentation of the Terms of an Actual or Proposed Insurance Contract or Application for Insurance – MCL 500.1239(1)(e)

37. Respondent knew or should have known that Section 1239(1)(e), MCL 500.1239(1)(e), provides that the Director may take action against an insurance producer who

intentionally misrepresents the terms of an actual or proposed insurance contract or application for insurance.

38. Respondent provided consumers with fraudulent certificates of insurance that intentionally misrepresented the terms of insurance coverage.

F. Dishonest and Fraudulent Practices – MCL 500.1239(1)(h)

39. Respondent knew or should have known that Section 1239(1)(h), MCL 500.1239(1)(h), provides that the Director may take action against an insurance producer who uses dishonest and/or fraudulent practices.

40. Respondent provided justification for licensing sanctions by using dishonest and fraudulent practices when she:

- a. Accepted premium funds without ensuring that all the funds accepted from customers that were intended for the payment of insurance premium were remitted to insurers for that purpose;
- b. Failed to reconcile receipts representing that all of the insureds' premium payments were applied to insurance when they were not;
- c. Falsified receipts and other insurance documents;
- d. Failed to use reasonable accounting methods to record funds received in a fiduciary capacity;
- e. Failed to use reasonable accounting methods to record funds received on behalf of the agency;
- f. Failed to provide records of receipts and distributions of all premiums due each of her insurers;
- g. Failed to maintain the accounts, records, documents and transactions pertaining to insurance business for examination by the Director;
- h. Fraudulently issued certificates of insurance;
- i. Concealed her misconduct from insureds, insurers, and the SOS by providing false information;
- j. Failed to remit premium funds to insurers; and,
- k. Failed to return premium funds to insureds when the funds were not used for intended purposes.

G. Untrustworthiness, Incompetence and Financial Irresponsibility – MCL 500.1239(1)(h)

41. Respondent knew or should have known that Section 1239(1)(h), MCL 500.1239(1)(h), provides that the Director may take action against an insurance producer who demonstrates incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.
42. Respondent provided justification for licensing sanctions by demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state when she:
 - a. Accepted premium funds without ensuring that all the funds accepted from customers that were intended for the payment of insurance premium were remitted to insurers for that purpose;
 - b. Failed to reconcile receipts representing that all of the insureds' premium payments were applied to insurance when they were not;
 - c. Falsified receipts and other insurance documents;
 - d. Failed to use reasonable accounting methods to record funds received in a fiduciary capacity;
 - e. Failed to use reasonable accounting methods to record funds received on behalf of the agency;
 - f. Failed to provide records of receipts and distributions of all premiums due each of her insurers;
 - g. Failed to maintain the accounts, records, documents and transactions pertaining to insurance business for examination by the Director;
 - h. Fraudulently issued certificates of insurance;
 - i. Concealed her misconduct from insureds, insurers, and the SOS by providing false information;
 - j. Failed to remit premium funds to insurers; and,
 - k. Failed to return premium funds to insureds when the funds were not used for intended purposes.
- H. Summary Suspension is Appropriate Under Section 1242 of the Code and Section 92 of the APA, MCL 500.1242 and MCL 24.292.**
43. Respondent's actions demonstrate a pattern of behavior constituting a serious threat to the public.

44. The alleged conduct of Respondent indicates that a summary suspension of licensure is appropriate and necessary in order to protect the public from further financial damage and other harm and to protect the public interest.
45. The alleged conduct of Respondent indicates that Respondent does not possess the requisite character and fitness to be engaged in the business of insurance, and further indicates that Respondent does not command the confidence of the public nor warrant the belief that Respondent will comply with the law.
46. Due process requirements of the Code and the Administrative Procedures Act require that the Respondent, subject to summary disciplinary action, be provided with an opportunity for a prompt hearing on the order for summary suspension. A summary suspension of Respondent's license is authorized by Section 92 of the Michigan Administrative Procedures Act of 1969, as amended, MCL 24.292, and Section 1242(4) of the Code, MCL 500.1242(4).