

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

CORNELL C. JONES, SR.
System ID. No. 0456204

Enforcement Case No. 16-14533

SELECT INSURANCE SERVICES
System ID. No. 0102438

Respondents.
_____ /

Issued and entered
on August 3, 2016
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 resident insurance producer licenses and authorities of Respondents are **SUMMARILY SUSPENDED**.
2. A copy of this Order shall be immediately served upon Respondents. This order shall be effective as to any such Respondent upon the date of service.
3. If requested by Respondents, 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 Respondents request a later date. The hearing shall address the following issues:
 - a. Whether the suspension should be continued or withdrawn.
 - b. Whether Respondents' licenses 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.

Dated: August 3, 2016


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. Cornell C. Jones, Sr. (Jones) System ID No. 0456204, is a licensed resident producer in Michigan with qualifications in property and casualty and authorized to transact the business of insurance in Michigan.
3. Angella K. Swain-Jones (Swain-Jones) System ID No. 0251677 was a licensed resident insurance producer. Her insurance producer license and qualifications were revoked by Final Decision on December 16, 2014, for operating an agency without a license, intentionally misrepresenting terms of a policy and the status of an application, conversion of money, issuing fraudulent certificates of insurance, failing to remit premiums, and violating previous DIFS orders to cease and desist from the same and/or similar activities. Respondent Swain-Jones is the former spouse of Jones.
4. Select Insurance Services (Select) System ID No. 0102438 is a licensed insurance agency with qualifications in property and casualty. Its principal place of business is 4385 Davison Rd., Burton, MI. Respondent Jones is Select's owner and designated responsible licensed producer (DRLP). According to DIFS' records, Respondent Jones is Select's only affiliated agent.
5. Based upon the information as set forth below, protection of the public health, safety, and/or welfare requires emergency action.
6. The Department of Insurance and Financial Services (DIFS) commenced an investigation of Respondents' business activities after receiving several complaints alleging Select and its agents collected premium funds from customers and did not remit the funds to insurers.
7. DIFS' investigation determined that Respondents kept customers' premium funds that were to be remitted to insurers for insurance purchases and customers' insurance coverage was cancelled for nonpayment.

8. DIFS received information from Progressive Insurance Corporate Investigations Division (CID) alleging that Respondents were collecting insurance premium money and not remitting it to Progressive.
9. CID also informed DIFS that it had conducted its own internal investigation of the Respondents' activities and suspected multiple policies had been sold by the Respondents even after Progressive terminated Respondents appointments on July 2, 2015.
10. CID informed DIFS that applications had been submitted online and policies negotiated from IP addresses connected with Respondents' insurance business activities. After the initial applications and the required down payments were submitted through the online portal, Progressive did not receive additional payments and the policies cancelled for nonpayment.
11. More specifically, in October 2015 RH, a Select customer, purchased a Progressive auto policy from Select with a cash down payment of \$395. Swain-Jones assisted with his insurance transaction. He then made in-person cash payments at Select every month thereafter in amounts of \$195-\$215.
12. RH was later notified by his automobile lienholder that he was uninsured. Upon calling Select, he was advised that "the issue was resolved." A Progressive policy was placed through Select, but RH later noticed that the address and email listed on the policy were inaccurate. After updating his address with Progressive, he received a pending cancellation notice from Progressive for nonpayment, despite having just made a monthly cash payment to Select.
13. SW visited Select and was assisted by a woman named "Stacy." SW later identified "Stacy" as Swain-Jones. SW paid Swain-Jones \$354 for the required down payment on auto insurance and approximately \$178 once a month thereafter for five months. In December 2015, SW's credit union asked for a copy of the policy declaration page, which Select refused to provide. Select also did not provide copies of the policy when requested. Although SW made timely monthly payments to Select for her auto policy, SW's policy cancelled and SW received a letter from her credit union advising that she was uninsured and that insurance would be force-placed.
14. Another customer, CB, paid \$215 every month to Select for auto insurance, but was notified by GMAC and Progressive that she was uninsured.
15. In February 2016, LN purchased an auto policy at Select. She was told that the required down payment was \$380. LN made the required down payment in cash. Subsequently, she made four additional \$112 monthly payments at Select. Progressive payment records show that only the required down payment of \$102.16 was remitted to Progressive. The policy cancelled for non-payment on April 7, 2016.
16. JB visited Select to purchase auto insurance and made the required down payment of \$376.13. In April and May 2016, JB returned to Select to make monthly payments of \$170. In June 2016, JB returned to Select and made a \$250 payment to "add an additional car."

During each visit, Swain-Jones assisted JB with his insurance payment. After calling Progressive, JB learned that no payment had been received after the required down payment.

17. In February 2016, MD visited Select to purchase a six-month auto insurance policy with a total premium due of \$718.08. MD was told by a Select agent that the required down payment for the policy was \$481, with three monthly payments of \$182. MD made timely, monthly payments to Select for the policy, but later received a notice of cancellation. After calling Progressive, MD learned that the required down payment was not \$481, but \$350. He also learned that while a second payment was remitted by Select in March 2016, bringing the total to \$496.39 that Progressive received from Select, Progressive did not receive his April or May payment. The policy was cancelled on May 22, 2016, for non-payment despite the fact that MD had paid a total of \$1028 in premium to Select, or \$309.92 more than what was charged by Progressive for the policy.
18. On April 4, 2016, DTJ purchased insurance with a down payment of \$282 from an individual who identified herself as “Julie Willard” at Select. Although DTJ made additional monthly payments in May, June and July totaling \$433.33 to “Julie Willard” and/or a person identified as Theresa Williams, Progressive cancelled the policy in June for nonpayment.
19. LJ purchased a six-month Progressive policy from Select and made a required down payment of \$250. Thereafter LJ made monthly payments of \$141 in May, June and July. Select remitted only the required down payment of \$250 to Progressive and LJ’s policy was cancelled for nonpayment.
20. Respondents’ actions demonstrate a pattern of behavior constituting a serious threat to the public.

COUNT I

Unlicensed Activity – MCL 500.1201(a)(1) and MCL 500.1239(1)(l)

21. Respondents knew or should have known that Section 1201a(1) of the Code, MCL 500.1201a(1), provides that a person shall not sell, solicit or negotiate insurance without being licensed under the Code. “Sell,” “solicit,” and “negotiate” are terms defined in the Code at MCL 500.1201(k), (l) and (n.)
22. Respondents knew or should have known that Section 1239(1)(l) of the Code, MCL 500.1239(1)(l), provides that the Director may take action against an insurance producer who knowingly accepts insurance business from an individual who is not licensed.
23. Swain-Jones violated the Code and provided justification for licensing sanctions when she solicited, sold and negotiated insurance policies, submitted insurance applications to insurers, collected premiums and secured coverage at Select without being licensed and after having been ordered by the Director to cease and desist all insurance activities.

24. Jones has provided justification for licensing sanctions when he allowed Swain-Jones to sell, solicit and negotiate insurance policies, submit insurance applications to insurers, collect premiums, bind coverage, and accept insurance business when she was not licensed, had her license revoked and had been ordered to cease and desist all insurance activities.
25. Select has provided justification for suspension or revocation of licensure when Respondent Jones, as owner, director, officer, manager, and/or DRLP of Select, allowed Swain-Jones to sell, solicit and negotiate insurance policies, submit insurance applications to insurers, collect premiums and bind coverage at Select without being licensed and properly authorized to transact the business of insurance. Jones knew or should have known that his facilitation of Swain-Jones' unlicensed activity was in violation of the Code and that on behalf of Select he was required to report the violation to the Director or take corrective action, but did neither.

COUNT II

Unappointed Activity – MCL 500.1208a(1) and MCL 500.1239(1)(b)

26. Respondents knew or should have known that an insurance producer shall not sell, solicit and/or negotiate and bind coverage for that insurer unless the insurance producer becomes an appointed agent of that insurer. MCL 500.1208a(1) and DIFS Insurance Bulletin 2015-11-INS.
27. Swain-Jones violated the Code and provided justification for licensing sanctions when she solicited, sold and negotiated insurance policies, collected premiums, and secured coverage for Progressive at Select without being properly appointed by Progressive.
28. Respondent Jones violated the Code and provided justification for licensing sanctions when he allowed Swain-Jones and Select to solicit, sell and negotiate insurance policies, collect premiums, and bind coverage for Progressive at Select without being properly appointed. He knew or should have known that Swain-Jones was improperly acting on behalf of Progressive by using Progressive's online portal to solicit, sell and negotiate insurance policies without being properly appointed. He knew or should have known that Select's appointment was cancelled by Progressive on July 2, 2015.
29. Select has provided justification for the suspension or revocation of licensure when Jones, as owner, director, officer, manager, and/or DRLP of Select, allowed Swain-Jones and Select to improperly act on behalf of Progressive by using Progressive's online portal to solicit, sell and negotiate insurance policies, collect premiums and bind coverage for insurers at Select knowing neither were appointed by Progressive. Jones knew or should have known that his facilitation of Swain-Jones and Select's unappointed activity was in violation of the Code and that on behalf of Select was required to report the violation to the Director or take corrective action, but did neither.

COUNT III
Breach of Fiduciary Duty – MCL 500.1207(1) and 500.1239(1)(b)

30. Respondents 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 to turn over the money which he or she holds in a fiduciary capacity to the persons to which it is owed is prima facie evidence of a violation of the agent's fiduciary responsibility.
31. Respondent Jones violated Section 1207(1) of the Code, MCL 500.1207(1), when he:
 - a. Allowed Swain-Jones, Select and others to accept funds on his behalf, without ensuring that all of the funds accepted from customers that were intended for the payment of insurance were remitted to insurers for that purpose; and
 - b. Allowed Swain-Jones and others to accept funds on behalf of Select without ensuring that all of the funds accepted from customers that were intended for the payment of insurance were remitted to insurers for that purpose.
32. Select has provided justification for suspension or revocation of licensure when Jones, as owner, director, officer, manager, and/or DRLP of Select, knew or should have known that a fiduciary duty exists to ensure that money accepted from customers and intended for the payment of insurance is remitted to insurers for that purpose and when money intended for the payment of insurance premiums was accepted from customers at Select and was not remitted to insurers for that purpose, he knew or should have known that such activity was in violation of the Code and he was required to report the violation to the Director or take corrective action, but did neither.

COUNT IV
Improperly Withholding, Misappropriating, or Converting Any Money or Property Received in the Course of Doing Insurance Business – MCL 500.1239(1)(d)

33. Respondents knew or should have known that Section 1239(1)(d) of the Code, 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 doing insurance business.
34. Respondent Jones has provided justification for the suspension or revocation of licensure when he misappropriated and/or converted premium payment made by insurance customers that was intended for payment of insurance when he allowed Swain-Jones, Select and others to accept funds on his behalf, without ensuring that all of the funds accepted from customers that were intended for the payment of insurance were remitted to insurers for that purpose.
35. Select has provided justification for the suspension or revocation of licensure when Jones, as owner, director, officer, manager, and/or DRLP of Select, knew or should have known

that customer funds were being misappropriated and converted as outlined above and that such activity was in violation of the Code, and that on behalf of Select he was required to report the violations to the Director or take corrective action, but did neither.

COUNT V
Dishonest and/or Fraudulent Practices or Demonstrating Incompetence,
Untrustworthiness or Financial Irresponsibility in the Conduct of Business
MCL 500.1239(1)(h)

36. Respondents knew or should have known that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), provides that the Director may take action against an insurance producer who uses fraudulent, coercive, or dishonest practices or demonstrates incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.
37. Jones used dishonest and/or fraudulent practices and demonstrated incompetence, untrustworthiness and financial irresponsibility in the conduct of business by:
 - a. Allowing Swain-Jones, Select and others to sell, solicit and negotiate insurance policies at Select without being properly licensed;
 - b. Allowing Swain-Jones and Select to act on behalf of insurers without being properly appointed;
 - c. Failing to ensure only licensed and appointed individuals solicited, sold, and negotiated insurance at Select;
 - d. Intentionally misleading insurance customers by stating a required down payment for insurance without disclosing the true cost of the policy and without disclosing the actual required down payment as charged by the insurer;
 - e. Failing to remit premium money to the insurer to which it was owed;
 - f. Accepting insurance business from unlicensed individuals;
 - g. Allowing Swain-Jones and others to accept premium funds on behalf of Select 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;
 - h. Paying a commission, service fee, or other valuable consideration to unlicensed individuals for selling, soliciting, or negotiating insurance in this state;
 - i. Failing to supervise the activities of Swain-Jones and others; and
 - j. Failing, as DRLP, to ensure Select and its agents engaged in the business of insurance in compliance with Michigan's insurance laws, rules and regulations.

38. Select has provided justification for the suspension or revocation of licensure when Jones, as owner, director, officer, manager, and/or DRLP of Select, knew or should have known that the activity conducted as outlined above was in violation of the Code and that on behalf of Select he was required to report the violations to the Director or take corrective action, but did neither.

COUNT VI
Action Against Agency for an Individual Licensee's Violation
MCL 500.1239(3)

39. Respondents knew or should have known that Section 1205(2)(b) of the Code, MCL 500.1205(2)(b), provides that each business entity must have a DRLP who is responsible for the business entity's compliance with Michigan's insurance laws, rules and regulations. Jones serves as Select's DRLP.
40. Respondents knew or should have known that Section 1239(3) of the Code, MCL 500.1239(3), provides that the license of a business entity may be suspended, revoked, or refused if the Director finds that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the partnership or corporation and the violation was neither reported to the Director nor corrective action taken.
41. Select has provided justification for suspension or revocation of licensure when Jones, as owner, director, officer, manager, and/or DRLP of Select, knew or should have known that the activity conducted as outlined in paragraphs 24, 25, 28, 29, 31, 32, 34, 35, 37, and 38 was in violation of the Code and that on behalf of Select he was required to report the violations to the Director or take corrective action, but did neither.
42. Summary suspension is appropriate under Section 1242 of the Code and Section 92 of the APA, MCL 500.1242 and MCL 24.292.
43. The alleged conduct of the Respondents 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.
44. The alleged conduct of the Respondents indicates that Respondents do not possess the requisite character and fitness to be engaged in the business of insurance, and further indicates that Respondents do not command the confidence of the public nor warrant the belief that Respondents will comply with the law.
45. Due process requirements of the Code and the Administrative Procedures Act require that the Respondents be provided with an opportunity for a prompt hearing on the Order for summary suspension. A summary suspension of Respondents' 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).

46. Based upon the actions listed above, Jones and Select have committed acts that provide justification for the Director to order the payment of a civil fine, the refund of any overcharges, that restitution be made to cover losses, damages or other harm attributed to Respondents' violation or violations of the Code, and/or other licensing sanctions, including revocation of licensure.