

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

Before the Director of the Department of Insurance and Financial Services

In the matter of:

EVERGREEN INSURANCE AGENCY, INC. **ENFORCEMENT CASE NO. 14-11959**
System ID No. 0014747

RICHARD R. CREED
System ID No. 0077638

Respondents.

_____ /

Issued and entered
on Dec. 8, 2014
By Teri L. Morante
Chief Deputy Director

ORDER ACCEPTING STIPULATION

Based upon the Stipulation to Entry of Order and the files and records of the Department of Insurance and Financial Services (DIFS) in this matter, the Chief Deputy Director finds and concludes that:

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 the Department of Insurance and Financial Services (DIFS).
2. The Chief Deputy Director has jurisdiction and authority to adopt and issue this Order Accepting Stipulation in this proceeding pursuant to the Michigan Administrative Procedures Act of 1969 (APA), as amended, MCL 24.201 et seq., and the Michigan Insurance Code of 1956 (Code), MCL 500.100 *et seq.*
3. All required notices have been issued in this case, and the notices and service thereof were appropriate and lawful in all respects.
4. Acceptance of the Stipulation to Entry of Order is reasonable and in the public interest.
5. All applicable provisions of the APA have been met.
6. In 2009, Respondents were found to have violated Sections 1207 and 1239 of the Code.

7. As a result, a Consent Order and Stipulation (2009 Order) were entered against Respondents requiring corrective action and allowing follow-up examinations to determine compliance. (Exhibit A).
8. Since the entry of the 2009 Order, DIFS staff has conducted numerous follow-up examinations and provided guidance and recommendations for compliance.
9. Respondents have implemented many of the recommendations and continue to improve business practices.
10. However, despite the continuing advice and guidance of DIFS staff, the DIFS alleges that Respondents have failed or refused to comply with all of the requirements of the 2009 Order to the satisfaction of DIFS.
11. The latest examination in 2013 determined that Respondents continue to have the following deficiencies:
 1. Accounting discrepancies between customer receipts, agency logs, and insurer records.
 2. Discrepancies between bank statements and agency deposit records.
 3. Failure to write and record receipts.
 4. Failure to keep records in a manner that was open to examination by the Director.
12. The DIFS alleges that the noted deficiencies are violations of Section 1207(2) of the Code, MCL 500.1207(2), the 2009 Order, and show untrustworthiness and financial irresponsibility in the conduct of business.

Now therefore, based upon the Stipulation to Entry of Order and the facts surrounding this case, **IT IS ORDERED THAT:**

13. Respondents shall cease and desist from violating the Insurance Code.
14. The 2009 Consent Order and Stipulation is NOT rescinded, remains in full effect, and Respondents shall comply with its terms, to the extent that the terms of the 2009 Consent Order does not conflict with this Order. To the extent that there are any conflicts, this Order will control.
15. Respondents shall immediately take all steps necessary to establish and implement "reasonable accounting methods," as required under MCL 500.1207(2) and the 2009 Consent Order and Stipulation.
16. Respondents shall immediately take all steps necessary to communicate with Chemical Bank, and all banks with which they do business, to require that a Transaction Receipt is presented to Respondents at the time that each deposit is made before leaving the bank

- counter. The Transaction Receipt given by the bank shall match the amount of the deposit that is being presented at that time and Respondents shall verify same.
17. Respondents shall continue to follow the newly developed “daily cash received process,” that they voluntarily instituted May 1, 2014, which includes a daily Excel spreadsheet (log) notating each customer payment received. From the date of entry of this Order, the log shall include the insured’s name, policy number, company, amount of transaction, and type of payment (cash, check, credit card, etc.). At the end of the day, the log shall be tallied, the total notated on the deposit slip, and the payments shall be deposited into the Agency’s trust account. The daily tallies will be kept in the Respondents’ files for each day that payments were received and deposited by the Respondents.
 18. Respondents shall continue to follow the Agency’s newly developed “customer receipt process,” which includes printing the application confirmation/payment receipt from the Company’s website once the insured’s payment is uploaded, giving a copy of the receipt to the insured, and keeping a copy in the Agency’s daily file.
 19. Respondents shall immediately take all steps necessary to establish and maintain a process to reconcile the bank statements monthly, comparing the deposit totals from the bank statement with the deposit slips and daily totals.
 20. Respondents shall keep and maintain all records in a manner that is accessible and open to examination by the Director and shall produce all records for inspection in a timely manner.
 21. Should Respondents continue to operate in a manner that violates the 2009 Consent Order and Stipulation, the Order Accepting Stipulation and Stipulation to Entry of Order, or the Code in any way, Respondents insurance producer licenses may be revoked.
 22. Respondents shall pay to the State of Michigan, through the Department of Insurance and Financial Services (DIFS), administrative and civil fines of \$5,000.00. This amount shall be paid via cashier’s check or money order made payable to the “State of Michigan” within 45 days after receipt of an invoice from DIFS.
 23. The Chief Deputy Director retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as shall be deemed just, necessary, and appropriate in accordance with the Code. Failure to abide by the terms and provisions of the Stipulation to Entry of Order and this Order may result in the commencement of additional proceedings.


Teri L. Morante
Chief Deputy Director

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

Before the Director of the Department of Insurance and Financial Services

In the matter of:

EVERGREEN INSURANCE AGENCY, INC. ENFORCEMENT CASE NO. 14-11959
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RICHARD R. CREED
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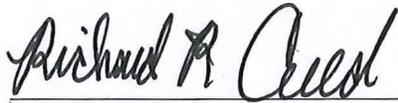
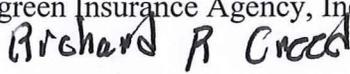
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STIPULATION TO ENTRY OF ORDER

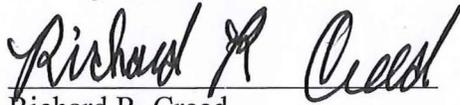
Evergreen Insurance Agency, Inc. and Richard R. Creed (Respondents) stipulate to the following:

1. The Department of Insurance and Financial Services (DIFS) has alleged that Respondents violated provisions of the Insurance Code of 1956 (Code), MCL 500.100 *et seq.*, by failing to comply with the 2009 Consent Order and Stipulation, failing to establish and maintain reasonable accounting practices, and failing to establish and maintain an appropriate and compliant filing system.
2. Specifically, the DIFS believes that Respondents have engaged in conduct that allows the Director to impose sanctions against the Respondents' producer licenses pursuant to Section 1207(2), MCL 500.1207(2), and Section 1239(1)(h), MCL 500.1239(1)(h).
3. Respondents exercised the right to an opportunity to show compliance pursuant to the Michigan Administrative Procedures Act (APA), MCL 24.201 *et seq.*
4. Respondents and DIFS conferred for the purpose of resolving this matter.
5. At all pertinent times, Respondents were licensed with DIFS as resident insurance producers pursuant to the Code.
6. All parties have complied with the procedural requirements of the APA and the Code.
7. Respondents agree to cease and desist from operating in a manner that violates the Code.
8. Respondents shall comply with the 2009 Consent Order and Stipulation to the extent not superseded by this Order, shall comply with all requirements of this Order Accepting Stipulation and Stipulation to Entry of Order, and shall pay administrative and civil fines in the amount of \$5,000.00.

9. Should Respondents continue to operate in a manner that violates the 2009 Consent Order and Stipulation, this Order Accepting Stipulation and Stipulation to Entry of Order, or the Code in any way, Respondents insurance producer licenses may be revoked.
10. Respondents understand and agree that this Stipulation to Entry of Order will be presented to the Chief Deputy Director for approval.
11. The Chief Deputy Director may, in her sole discretion, decide to accept or reject this Stipulation to Entry of Order. If the Chief Deputy Director accepts the Stipulation to Entry of Order, Respondents waive the right to a hearing in this matter and consent to the entry of the Order Accepting Stipulation. If the Chief Deputy Director does not accept the Stipulation to Entry of Order, Respondents waive any objection to the Director holding a formal administrative hearing and making her decision after such hearing.
12. Respondents have had an opportunity to review this Stipulation to Entry of Order and the proposed Order Accepting Stipulation and have the same reviewed by legal counsel.

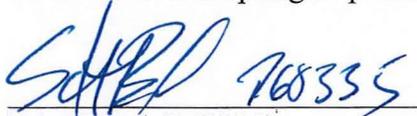

Evergreen Insurance Agency, Inc.
By: 
Its: 

10-16-14
Date


Richard R. Creed

10-16-14
Date

DIFS Staff approve this stipulation and recommend that the Chief Deputy Director issue the above Order Accepting Stipulation.


Scott Basel (P68335)
DIFS Staff Attorney

12-1-14
Date