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

Petitioner,

v

Fidelity American Corporation
System ID No. 0071861

Respondent.
_____/

Enforcement Case No. 15-12555
Agency Case No. 15-1075-L

Issued and entered
on April 20 **, 2016**
by Randall S. Gregg
Deputy Director

FINAL DECISION

I. Background

Fidelity American Corporation (Respondent) is a licensed business entity insurance producer. The Department of Insurance and Financial Services (DIFS) received information that Respondent failed to register an individual licensed producer to serve as the Designated Responsible Licensed Producer (DRLP) for the agency. After investigation and verification of the information, on April 7, 2015, DIFS issued a Notice of Opportunity to Show Compliance (NOSC) informing Respondent that failure to designate a new DRLP or to show continuous compliance with the DRLP requirement would result in further compliance action, including revocation of the agency license. Respondent failed to reply to the NOSC.

On May 21, 2015, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent at the address it 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 and sign a settlement with DIFS, (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 October 9, 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, the Director has assumed the statutory authority and responsibility, granted to the Commissioner by the Michigan Insurance Code (Code), to exercise general supervision and control over persons transacting the business of insurance in Michigan.

2. At all relevant times, Respondent was a licensed business entity insurance producer.

3. As a prerequisite to licensure, every business entity agency must register with DIFS an individual licensed producer who will serve as the DRLP for the agency. MCL 500.1205(2)(b). The purpose of a DRLP is to ensure that each agency has a knowledgeable person designated as responsible for agency compliance with statutory and administrative requirements. Such a designation is an indication of both compliance and trustworthiness. Without a knowledgeable person designated as responsible for compliance under the Code, the trustworthiness of the agency is in question.

4. Respondent does not have a valid DRLP registered with DIFS.

5. Failure to continue to comply with the minimum requirements for licensure, even after licensure, constitutes a violation of the Code. See, e.g., Insurance Bureau Final Decision in *In re: Marvin John Zmudczynski, Edward Hartka, and Town Center Underwriters, Inc.* (July 15, 1987).

6. As a licensee, Respondent knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), states:

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

7. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), by demonstrating untrustworthiness by failing to register with DIFS an individual licensed producer who will serve as the DRLP for the agency.

8. Section 1244(1)(d) of the Code, MCL 500.1244(1)(d), provides that if the Director finds that a person has violated Chapter 12, after an opportunity for a hearing, the Director shall reduce

the findings and decision to writing and shall issue and cause to be served upon the person charged with the violation a copy of the findings and an order requiring the person to cease and desist from the violation. In addition, the Director may order, among other things, the suspension or revocation of the person's license.

9. Respondent has provided justification for sanctions pursuant to Section 1244(1)(d) of the Code, MCL 500.1244(1)(d), by violating Section 1205(2)(b) of the Code, MCL 500.1205(2)(b).

10. On or about April 7, 2015, the DIFS Office of Licensing and Market Conduct sent a NOSC to Respondent, addressed to its owner/officer of record at the address it is required to maintain on file with DIFS.

11. Respondent was given 14 days to respond to the NOSC. Respondent did not respond.

12. DIFS Staff have made reasonable efforts to serve Respondent and have complied with MCL 500.1238(2). Respondent has received notice and has been given an opportunity to respond and appear, yet has not responded nor appeared.

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

14. Pursuant to Sections 1239(1)(h) and 1244(1)(d), the Director may revoke the Respondent's license on the basis of the uncontested violations of Chapter 12 set forth above.

III. Order

Based upon 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. Pursuant to MCL 500.1205(2)(b), MCL 500.1239(1)(h), and MCL 500.1244(1)(d), Respondent's insurance producer license (System ID No. 0071861) is **REVOKED.**

Patrick M. McPharlin, Director
For the Director:

Randall S. Gregg, Deputy Director