

**STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

LA INSURANCE AGENCY 152, LLC
System ID No. 0086496

ENFORCEMENT CASE NO. 13-11699

HAIFA HERMIZ
System ID No. 0209763

Respondents.

_____ /

Issued and entered
on January 21, 2013
By **Annette E. Flood**
Chief Deputy Commissioner

**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 public health, safety and welfare requires emergency action,

IT IS THEREFORE ORDERED that:

1. The 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 - a. Whether the suspension should be continued or withdrawn.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 Commissioner retains jurisdiction of the matters contained within and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate.


Annette E. Flood
Chief Deputy Commissioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Commissioner of the Office of Financial and Insurance Regulation (OFIR) is statutorily charged with the authority and responsibility to exercise general supervision and control over persons transacting the business of insurance in Michigan pursuant to the Insurance Code of 1956 ("Code"), MCL 500.100 *et seq.*
2. At all relevant times, Respondent LA Insurance Agency 152, LLC (LA) was a licensed resident insurance business entity with qualifications in property and casualty and was authorized to transact the business of insurance in Michigan.
3. At all relevant times, Respondent Haifa Hermiz (Hermiz) was a licensed resident producer with qualifications in property and casualty and was authorized to transact the business of insurance in Michigan.
4. At all relevant times, Respondent Hermiz was the Designated Responsible Licensed Producer for Respondent LA.
5. Rudy Hernandez (Hernandez) is purported to be the manager of Respondent LA but is not a licensed insurance producer in Michigan or any other state.
6. Based upon the information as set forth below, protection of the public health, safety, and/or welfare requires emergency action.

I.

7. On January 8, 2011, J.F.G.L. (JFGL) applied for automobile insurance with Progressive Michigan Insurance Company through Respondents. The premium for this policy was \$34.00.
8. Respondents also collected \$162.00 for a Motor Club Membership with the Nation Motor Club, Inc. (NMC).
9. Later that day, JFGL cancelled both policies.

10. Progressive processed the cancellation as requested and refunded the premium money.
11. In a fax OFIR received on August 16, 2011, Respondents claimed that the \$162.00 collected for the NMC membership was nonrefundable and that was clearly explained to the customer.
12. Despite this claim, OFIR received a fax from Respondents on August 17, 2011, of a purported receipt for a refund of the \$162.00. The receipt is dated June 9, 2011.
13. The customer's signature on the receipt does not correctly match the name of the customer due the refund.
14. JFGL claims that he did not receive a refund and that he did not sign the receipt.
15. Respondents knew or should have known that Section 1239(1) of the Code, MCL 500.1239(1), provides, in part:

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:

* * *

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

* * *

(j) Forging another's name to an application for insurance or to any document related to an insurance transaction.

16. Forging a name on a document related to an insurance transaction is a violation of Section 1239(1)(j) of the Code, MCL 500.1239(1)(j). In addition, it shows fraudulent, coercive, and dishonest practices and demonstrates incompetence and untrustworthiness in the conduct of business, and provides justification for licensing sanctions and civil fines under Section 1239(1)(h) of the Code, MCL 500.1239(1)(h).
17. Respondents knew or should have known that Section 1207(1) of the Code, MCL 500.1207(1), provides, in part:

(1) 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 persons to whom they are owed is prima facie evidence of violation of the agent's fiduciary responsibility.

18. By failing or refusing to refund premium money due to a customer, Respondents are in violation of Section 1207(1) of the Code, MCL 500.1207(1).

II.

19. On June 21, 2011, OFIR requested from Respondents a copy of the "customary short rate cancellation table" used to calculate refunds under the NMC membership. This table has not been provided.
20. On September 22, 2011, OFIR requested from Respondents a copy of the signed agreement indicating that the payment was nonrefundable and an explanation as to why it took nearly six months to refund the money to the customer. This information has not been provided.
21. On August 31, 2012, OFIR requested front and back copies of the refund check in this case. This information has not been provided.
22. Respondents knew or had reason to know that Section 249 of the Code, MCL 500.249, provides, in part:

For the purposes of ascertaining compliance with the provisions of the insurance laws of the state or of ascertaining the business condition and practices of an insurer or proposed insurer, the commissioner, as often as he deems advisable, may initiate proceedings to examine the accounts, records, documents and transactions pertaining to:

(a) Any insurance agent, surplus line agent, general agent, adjuster, public adjuster or counselor.

23. By failing or refusing to provide documentation on request from OFIR, Respondents have violated Section 249 of the Code, MCL 500.249.

III.

24. On July 27, 2012, a client, NB, applied for automobile insurance through Respondents. NB had received a ticket for failing to produce evidence that her vehicle had the requisite insurance coverage on July 22, 2012.
25. Progressive Michigan Insurance Company issued policy number 14686478-0 to NB, effective from July 27, 2012 to January 27, 2013.
26. On July 27, 2012, NB provided a Temporary No-Fault Certificate of Insurance to the Court Administrator of the 62A District Court.

27. The Certificate was dated from June 27, 2012, to July 27, 2012, which would have meant that the insurance was in place at the time the ticket was issued. The Certificate was purportedly issued by Foremost Insurance Company, but bore the policy number of the Progressive policy.
28. The Court Administrator determined that this proof of insurance was false.
29. On July 31, 2012, at 1:38 pm, Hernandez, on behalf of Respondents, faxed a computer screen shot of the Progressive policy to the Court Administrator of the 62A District Court.
30. This fax showed that the policy for NB had a term from June 27, 2012, to December 27, 2012.
31. The Court Administrator contacted Progressive to verify the terms of the policy.
32. Progressive faxed a letter to the Court Administrator stating that the policy was effective from July 27, 2012, to January 27, 2013, meaning it was not in effect at the time the ticket was received.
33. Respondents knew or should have known that Section 1239(1) of the Code, MCL 500.1239(1), provides, in part:

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:

* * *

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

* * *

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

34. By changing the date on an insurance policy and sending it to a court administrator, Respondents intentionally misrepresented the terms of an actual insurance contract, used fraudulent and dishonest practices, and demonstrated untrustworthiness in the conduct of business.

IV.

35. Respondent Hermiz is the Designated Responsible Licensed Producer (DRLP) for Respondent LA Insurance Agency 152, LLC.
36. Respondents knew or should have known that Section 1205(2)(b) provides:
- (2) A business entity acting as an insurance producer shall obtain an insurance producer license. A business entity applying for an insurance producer license shall file with the commissioner the uniform business entity application required by the commissioner. An application for an insurance producer license under this subsection shall not be approved unless the commissioner finds all of the following:
- * * *
- (b) The business entity has designated an individual licensed producer responsible for the business entity's compliance with this state's insurance laws, rules, and regulations.
37. Section 1239(3) of the Code, provides that the Commissioner may revoke the license of a business entity if the Commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by 1 or more of the partners, officers, or managers acting on behalf of the partnership or corporation and the violation was neither reported to the Commissioner nor corrective action taken. MCL 500.1239(3).
38. Section 1242(4) of the Code provides, in pertinent part, that “[w]ithout prior hearing, the Commissioner may order summary suspension of a license if he or she finds that protection of the public requires emergency action and incorporates this finding in his or her order.” MCL 500.1242(4).
39. Respondent Hermiz, as DRLP, is responsible for Respondent LA’s compliance with the insurance laws, rules, and regulations.
40. Respondent Hermiz was actively involved in the above activities and knew or should have known of the conduct of Hernandez.
41. Respondent Hermiz failed to report known violations to the Commissioner and failed to take corrective action to ensure Respondent LA remained in compliance with the Code. Respondent Hermiz, as DRLP, committed acts on behalf of Respondent LA Insurance that provide justification for the Commissioner to revoke Respondent LA’s resident agency insurance producer license.
42. Respondents' actions demonstrate a pattern of behavior constituting a serious threat to the public.

43. The alleged conduct of 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 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, subject to summary disciplinary action, 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).

