

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

Before the Director of the Department of Insurance and Financial Services

In the matter of:

JOE SHAW
System ID No. 0673800

Enforcement Case No. 14-11985

SECOND HAND WORLD 2
an unincorporated business in Michigan

Respondents.

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Issued and entered
on March 27, 2014
by **Teri L. Morante**
Chief Deputy Director

**ORDER TO CEASE AND DESIST WITH STATEMENT OF FINDINGS
AND NOTICE OF OPPORTUNITY FOR HEARING**

Pursuant to Section 251 of the Michigan Insurance Code (Code), MCL 500.251, and after reviewing evidence of the conduct described in the attached Statement of Findings; and

WHEREAS, the Director of the Department of Insurance and Financial Services finds that immediate action is necessary and appropriate in the public interest for the protection of the public health, safety, and welfare and consistent with the purposes fairly intended by public policy and provisions of the Code;

IT IS THEREFORE ORDERED THAT:

1. The Respondents shall immediately **CEASE AND DESIST** from all activities in violation of the Code as described in the Statement of Findings.
2. A copy of this Order shall be immediately served upon Respondents. As to any Respondents, this Order shall be effective upon the date of service.
3. Respondents will have 30 calendar days after the service of this Order to contest it by requesting a hearing. Within 10 calendar days after receiving the request, the hearing process shall commence. This Order shall remain in effect until further order of the Director. Any request for a hearing should be addressed to the Department of Insurance and Financial Services, Attention: Judy Deshazor, Hearings Clerk, P.O. Box 30220, Lansing, MI 48909-7720 or faxed to 517-373-1224.

4. Any such hearing held shall address the following issues:
 - a. The facts set forth in the Statement of Findings.
 - b. The continuation of the Order to Cease and Desist.
 - c. Restitution to be paid by the Respondents.
5. If a hearing is requested, an administrative law judge from the Michigan Administrative Hearing System shall preside over any such hearing.
6. The Director retains jurisdiction of the matters contained herein and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate.
7. Pursuant to Section 251(6) of the Code, MCL 500.251(6), a person who violates or otherwise fails to comply with an Order to Cease and Desist is subject to one or more of the following:
 - a. Payment of a civil fine of not more than \$1,000 for each violation not to exceed an aggregate civil fine of \$30,000. However, if the person knew or reasonably should have known the conduct was in violation of the cease and desist order, the person shall be subject to a civil fine of not more than \$25,000 for each violation not to exceed an aggregate civil fine of \$250,000.

- c. Complete restitution, in the form, amount, and within the period determined by the Director, to all persons in Michigan damaged by the violation or failure to comply.



Teri L. Morante
Chief Deputy Director

Dated: March 27, 2014

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STATEMENT OF FINDINGS

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 have been transferred to the Director of the Department of Insurance and Financial Services (DIFS).
2. Pursuant to Section 251(1) of the Code, MCL 500.251, the Director is empowered to issue a cease and desist order if the Director finds any of the following:
 - (a) A person is conducting transactions of insurance for which a certificate of authority is required by this act without having obtained a certificate of authority;
 - (b) A person is acting as an insurance agent, solicitor, adjuster, or counselor without a license as required by this act;
 - (c) A person is engaged in an act or practice in the business of insurance for which authority from or notification to the commissioner is required by this act and the person has not received authority or given notification;
 - (d) A person authorized to engage in the business of insurance under this act is engaged in conduct that presents an immediate danger to public health, safety, or welfare. MCL 500.251(1).
3. Under Section 1201a of the Code, it is a violation for a person to sell, solicit, and negotiate insurance in this state for any line of insurance without first obtaining a license or qualification for that line. MCL 500.1201a(1).

4. Section 1201(l) of the Code, MCL 500.1201(l), defines sell to mean “to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.”
5. Section 1201(m) of the Code, MCL 500.1201(m), defines solicit to mean “attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.”
6. Section 1201(k) of the Code, MCL 500.1201(k), defines negotiate to mean “the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.”
7. Unlicensed individuals may **not**: Solicit the purchase of insurance or annuities; discuss, interpret, or elaborate upon information in sales literature or the application; give advice or describe specific characteristics or coverage of an insurance product; discuss rates, sales charges, or tax treatments of any product or attempt to answer any insurance or annuity question; sign an insurance application using his or her own signature or a producer’s stamp; accept insurance premium in exchange for certificates of insurance, bind coverage, or receive any compensation which varies with the volume of applications of premiums. *See Guidance for Telemarketers and Customer Service Representatives*, DIFS, <http://www.michigan.gov/difs/0,5269,7-303-22535-69205--,00.html>.
8. According to DIFS’ records, Respondents are not licensed to sell, solicit or negotiate insurance in the state of Michigan.
9. Respondent Shaw works at Second Hand World 2 located at 2812 Richfield Rd., Flint, MI, 48506.
10. During an investigation of Respondents’ business activities, DIFS’ Investigators determined that Respondents held themselves out to the public as being lawfully able to sell, solicit and negotiate insurance in Michigan. Second Hand World 2 is known in the community as a business that will issue certificates of insurance in exchange for money. Only a licensed insurance producer can issue certificates of insurance in exchange for money.
11. More specifically, on or about January 31, 2014, Customer M.B. went to Second Hand World 2 to purchase automobile insurance. Shaw assisted M.B. with her insurance purchase. M.B. paid the policy’s premium and Shaw provided M.B. with a Michigan Certificate of No-Fault Insurance underwritten by Titan Insurance.
12. M.B. later learned that the policy number listed on the certificate she received was not a valid policy number that provided coverage for her or her vehicle. Although M.B. made a premium payment for Titan Insurance coverage, Shaw did not remit the premium to Titan Insurance nor place M.B.’s coverage with Titan. Shaw also listed “Swain Insurance Agency” as the agency issuing the certificate. Shaw is not affiliated with Swain

Insurance Agency, and the agency itself is not licensed to do insurance business in Michigan. Shaw provided M.B. with fraudulent certificates of insurance that were issued by Shaw and/or Second Hand World 2.

13. Respondents held themselves out to the public as being able to lawfully sell, solicit and negotiate automobile insurance policies. They did sell, solicit and negotiate automobile insurance policies in violation of Section 1201a(1) of the Code, MCL 500.1201a(1), by soliciting automobile insurance policies to customers from specific auto insurers, accepting premium in exchange for certificates of insurance and purporting to bind coverage effective on the date of purchase.