

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

Before the Director of the Department of Insurance and Financial Services

In the matter of:

MICHAEL RAY SIMS
System ID No. 0427442

ENFORCEMENT CASE NO. 14-12051

Respondent.

_____ /

Issued and entered
on October 1st, 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 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. Respondent violated Section 1208a(1) of the Code, MCL 500.1208a(1), when he solicited the purchase of American Equity Investment Life Insurance Company (AEI) annuity products without being properly appointed by AEI to do so, and he also violated Section 249 of the Code, MCL 500.249, by failing to respond to a direct request for examination of accounts, records, and documents relating to the AEI annuity solicitations and sales.

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

7. Respondent shall immediately cease and desist from operating in such a manner as to violate Sections 249 and 1208a(1) of the Code, MCL 500.249 and MCL 500.1208a(1).
8. Respondent is assessed a civil fine of \$1,000 payable to the state of Michigan.
9. 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:

MICHAEL RAY SIMS
System ID No. 0427442

ENFORCEMENT CASE NO. 14-12051

Respondent.

_____ /

STIPULATION TO ENTRY OF ORDER

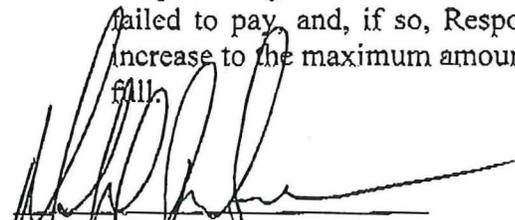
MICHAEL RAY SIMS (hereinafter Respondent) stipulates to the following:

1. Respondent is a licensed resident insurance producer with qualifications to transact insurance business in the lines of accident, health, life and variable annuities. System ID No. 0306592. His principal place of business is located at 1545 Bee Ct., Traverse City, MI, 49686.
2. On or about July 9, 2014, the Department of Insurance and Financial Services (DIFS) served Respondent with a Notice of Opportunity to Show Compliance alleging that Respondent violated provisions of the Insurance Code of 1956 (Code), MCL 500.100 *et seq.*
3. Specifically, on or about March 19, 2013, DIFS received a consumer complaint from DL that alleged Respondent solicited the purchase of American Equity Investment Life Insurance Company (AEI) annuity products that was not suitable for their needs.
4. In an effort to substantiate the allegations of the complaint, on February 23, 2014, a DIFS staff person emailed Respondent a set of questions regarding the DL transaction. Respondent did not respond.
5. On March 10, 2014, DIFS' staff emailed Respondent via certified and regular mail, the same set of questions and demanded a response no later than March 24, 2014. Although DIFS received confirmation that the certified letter had been received by Respondent, Respondent did not provide a response.
6. As a licensed insurance producer, Respondent knew or should have known that the Code provides the Director with the authority to ascertain the business condition and practices of an insurance producer by examining the accounts, records and documents and transactions of the producer. MCL 500.249.

7. Respondent violated Section 249 of the Code, MCL 500.249, when he failed to respond to a direct request for an examination of the accounts, records, documents and transactions of the DL annuity sale.
8. DIFS' investigation also revealed Respondent solicited, sold and negotiated the DL AEI annuity contract when he was not properly appointed by AEI, then used another agent's producer credentials, but was not registered as a solicitor for that agent.
9. DL stated that it was Respondent who visited the home and solicited the purchase of the AEI annuity. Respondent then gave DL's annuity contract to another agent who was appointed with AEI to sign the annuity contract as the agent of record.
10. As a licensed insurance producer, Respondent knew or should have known that only a licensed insurance producer appointed by the insurer can act as an agent of the insurer and bind coverage for that insurer. MCL 500.1208a(1).
11. Respondent violated the Code when he solicited the purchase of AEI annuity products without being properly appointed by AEI to do so.
12. On July 9, 2014, DIFS served Respondent with a Notice of Opportunity to Show Compliance to respond to the aforementioned allegations. Respondent exercised the right to an opportunity to show compliance pursuant to the Michigan Administrative Procedures Act (APA), MCL 24.201 *et seq.*, by participating in an informal conference. Compliance was not shown.
13. Respondent and DIFS conferred for the purpose of resolving this matter.
14. All parties have complied with the procedural requirements of the APA and the Code.
15. Respondent agrees that he will cease and desist from operating in a manner that violates MCL 500.249 and MCL 500.1208a(1).
16. Respondent agrees that he will pay to the state of Michigan, through DIFS, a civil fine in the amount of \$1,000. Respondent further agrees to pay the fine within 30 days of the invoice date as indicated on the DIFS invoice.
17. Respondent understands and agrees that this Stipulation to Entry of Order will be presented to the Chief Deputy Director for approval.
18. 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, Respondent waives the right to a hearing in this matter and consents to the entry of the Order Accepting Stipulation. If the Chief Deputy Director does not accept the Stipulation to Entry of Order, Respondent waives any objection to the Director holding a formal administrative hearing and making her decision after such hearing.
19. Respondent has 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.

Stipulation to Entry of Order
Enforcement Case No. 14-12051
Page 3 of 3

- 20. It is further stipulated that failure to comply with the Order of the Director accepting this settlement by failing to pay the administrative and civil fines as set forth above shall result in the commencement of an action that may bar the Respondent from becoming a licensed insurance producer in the state of Michigan.
- 21. It is further stipulated that the amount of fines and/or fees has been negotiated in return for the avoidance of further proceedings and certain promises and conditions, one of which is the timely payment of said fines and/or fees. Should Respondent fail to pay the fines and/or fees in accordance with the terms of this Stipulation and the Director's Order, the parties agree that an action will commence to determine if the Respondent has, in fact, failed to pay, and, if so, Respondent agrees that the fines and/or fees will immediately increase to the maximum amount allowed under the Code and shall be immediately due in full.



 Michael Ray Sims
 System ID No. 0427442

9/25/2014

 Date

DIFS' staff approve this stipulation and recommend that the Chief Deputy Director issue the above Consent Order.



 Elizabeth V. Bolden (P69865)
 DIFS Staff Attorney

9/29/2014

 Date