

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

**Enforcement Case No. 14-12211
Agency No. 15-042-L**

Petitioner,

v

Shannon Lynn Clarke-Shafer
System ID No. 0514643

Respondent.

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Issued and entered
on August 17, 2015
by Randall S. Gregg
Deputy Director

FINAL DECISION

I. Background

Shannon Lynn Clarke-Shafer (Respondent) is a licensed resident insurance producer. The Department of Insurance and Financial Services (DIFS) received information that Respondent failed to report her criminal unemployment compensation fraud conviction to DIFS, failed to provide DIFS with her updated address and contact information, and failed to remit a premium payment to the insurer to which it was owed as required by law. Additionally, Respondent provided an incorrect social security number on her 2014 Michigan insurance solicitor individual license application (ILA), and misappropriated a premium payment from her customer using a portion of it for her own purpose as a loan to herself. After investigation and verification of the information, on February 20, 2015, DIFS issued a Notice of Opportunity to Show Compliance (NOSC) alleging that Respondent had provided justification for revocation of licensure and other sanctions pursuant to Sections 1239(1) and 1244(1)(a-d) of the Michigan Insurance Code (Code), MCL 500.1239(1) and 500.1244(1)(a-d). In her response to the NOSC, Respondent stated: "I agree with the allegations but with a response...I do not request a hearing." No further explanation was included and further attempts to reach Respondent were unsuccessful.

On July 2, 2015, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent at the address she 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 a

resolution of the case, (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 respond or take any action.

On July 30, 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, 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 DIFS (Director).
2. Respondent is a licensed resident insurance producer with qualifications in accident and health, casualty, life, property and variable annuities.
3. Respondent was appointed with State Farm Fire and Casualty Co., State Farm Mutual Automobile Insurance Co., State Farm Life Insurance Co., and Time Insurance Co. (collectively State Farm) on November 12, 2009, and her appointments were terminated for cause on July 17, 2014, for misappropriating policyholder premium.
4. On or about June 10, 2014, Respondent collected a cash premium payment from her customer (GE) for the purchase of a State Farm auto insurance policy. GE paid Respondent a total of \$433.04. Instead of remitting the total payment to State Farm, Respondent altered the payment to reflect \$223.04 in order to retain and use \$210.00 of the payment as a loan to herself.
5. Subsequently, a State Farm team member overheard Respondent speaking with a customer who had called to find out why he had received a bill when his premium had been paid. The team member reported the situation to the employing agent who then reviewed the payment records and discovered the alteration.
6. On or about July 2, 2014, State Farm staff interviewed Respondent and obtained a written confession from her. Additionally, on that same day, Respondent paid \$210.00 into GE's account. State Farm terminated Respondent's employment.
7. On or about July 25, 2014, State Farm reported the information to DIFS Staff and requested that Respondent's appointments be terminated for cause based on the findings by State Farm of misappropriation of policyholder funds.
8. On September 17, 2014, a letter of inquiry was sent by DIFS Staff to Respondent's address of record requesting a response by October 13, 2014. The address was the same address that Respondent provided on her July 8, 2009, uniform ILA to become a

Michigan resident insurance producer. The U. S. Postal Service returned the letter on September 22, 2014, marked "unable to forward-return to sender," however, the address was verified by DIFS Staff via the Michigan Secretary of State database as a correct address.

9. On the same day, DIFS Staff ran a criminal background check on Respondent and found that Respondent had the following convictions:
 - November 16, 2000, misdemeanor retail fraud second degree; and
 - August 6, 2013, misdemeanor unemployment compensation fraud – false statement/misrepresentation, \$25,000 or more.
10. Although Respondent disclosed her 2000 misdemeanor retail fraud conviction on her 2009 uniform ILA, she failed to subsequently report her 2013 misdemeanor unemployment compensation fraud conviction to DIFS, as required by law.
11. DIFS Staff requested and received supplemental information regarding Respondent's unemployment compensation fraud conviction from the 14th Circuit Court, Muskegon County, Michigan, indicating that Respondent was ordered to complete 1 year and 3 months' probation, fined \$150, and ordered to pay \$25,512 restitution.
12. On June 2, 2014, Respondent was found guilty of violating the terms of her probation. Her probation was continued and she was ordered to serve 30 days in the Muskegon county jail with 1 day credit for a total of 29 days.
13. On October 6, 2014, Respondent submitted an online uniform ILA to become a Michigan insurance solicitor. Respondent failed to disclose her two misdemeanor convictions. Additionally, Respondent provided a social security number ending in "6780" on her 2014 uniform ILA. However, on her 2009 uniform ILA, she used a social security number ending in "6870." Lastly, Respondent provided a new address and contact information on her 2014 solicitor ILA, but failed to update her address and contact information for her active Michigan resident insurance producer license, as required by law.
14. As a licensee, Respondent knew or had reason to know that Section 1247(2) of the Code, MCL 500.1247(2), states that:
 - (2) Within 30 days after the initial pretrial hearing date, an insurance producer shall report to the commissioner any criminal prosecution of the insurance producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

15. By failing to report the criminal unemployment compensation fraud conviction to DIFS within 30 days of the initial pretrial hearing date, Respondent violated MCL 500.1247(2).
16. As a licensee, Respondent knew or had reason to know that Section 1238(1) of the Code, MCL 500.1238(1), states that:

(1) When applying for a license to act as an agent, solicitor, counselor, or adjuster, the applicant shall report his or her mailing and electronic mail address to the commissioner. An agent, solicitor, counselor, or adjuster shall notify the commissioner of any change in his or her mailing or electronic mail address within 30 days after the change. The commissioner shall maintain the mailing and electronic mail address of each agent, solicitor, counselor, or adjuster on file.

17. By failing to provide DIFS with her updated address and contact information, Respondent violated MCL 500.1238(1).
18. As a licensee, Respondent knew or had reason to know that Section 1207(1) of the Code, MCL 500.1207(1), states that:

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.

19. Respondent violated MCL 500.1207(1) when she did not remit the complete premium payment to State Farm and instead used the customer's money as a loan to herself.
20. As a licensee, Respondent knew or had reason to know that Sections 1239(1)(a), (b), (d), and (h) of the Code, MCL 500.1239(1)(a), (b), (d), and (h), state that:

(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:

(a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application.

(b) Violating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner.

- (d) Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.

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

21. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(a) of the Code, MCL 500.1239(1)(a), by providing an incorrect social security number on her 2014 solicitor ILA.
22. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), by failing to update her address pursuant to Section 1238(1) of the Code, MCL 500.1238(1).
23. Respondent has also provided justification for sanctions, pursuant to Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), by violating her fiduciary duty contrary to MCL 500.1207(1).
24. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(d) of the Code, MCL 500.1239(1)(d), by misappropriating a premium payment from her customer and using a portion of it as a loan to herself.
25. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), by failing to disclose her misdemeanor convictions on her 2014 solicitor ILA and has demonstrated incompetence, untrustworthiness and financial irresponsibility in the conduct of business by collecting a premium payment from her customer and using it as a loan to herself instead of remitting the full amount of that payment to State Farm, and by using different social security numbers on her licensing applications.
26. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order revocation of licensure.
27. On February 20, 2015 a NOSC was mailed by first class mail to Respondent at the following address on file:

Ms. Shannon Clarke-Shafer
28. The NOSC was also sent on February 20, 2015, to Respondent's email address of record.

29. On March 11, 2015, a response to the NOSC was received from Respondent. In the response, Respondent stated: "I agree with the allegations but with a response...I do not request a hearing."
30. On May 12, 2015, a Stipulation to revocation of licensure was sent to Respondent at her address of record. No response was received.
31. On June 1, 2015, a follow up email was sent to Respondent at her email address of record. On June 2, 2015, Respondent replied via email and stated: "I apologize. I had gotten in a car accident and have not been checking mail or email."
32. On June 2, 2015, DIFS Staff replied to Respondent's June 2 email and asked whether or not she would be signing and returning the Stipulation. Respondent has not since responded.
33. Respondent has received notice and has been given an opportunity to respond and appear and has not responded nor appeared.
34. Respondent is in default and the Petitioner is entitled to have all allegations accepted as true.

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 500.1207(1), MCL 500.1238(1), MCL 500.1247(2), MCL 500.1239(1)(a), (b), (d), and (h), and MCL 500.1244(1)(d), Respondent's Michigan resident insurance producer license (System ID No. 0514643) is **REVOKED**.

Patrick M. McPharlin, Director

For the Director:



Randall S. Gregg, Deputy Director