

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

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Vladimir Ivanovich Tatarly
System ID No. 0576241

Enforcement Case No. 15-12459

Respondent.
_____ /

**Issued and entered
on May 7, 2015,
by **Teri L. Morante**
Chief Deputy Director**

**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 protection of the public health, safety and welfare requires emergency action,

IT IS THEREFORE ORDERED that:

1. The insurance producer license and authority of Respondent are **SUMMARILY SUSPENDED**.
2. A copy of this Order shall be immediately served upon Respondent. This order shall be effective upon the date of service.
3. If requested by Respondent, 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 Respondent requests a later date. The hearing shall address the following issues:
 - a. Whether the suspension should be continued or withdrawn.
 - b. Whether Respondent's license 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 Director retains jurisdiction of the matters contained within and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate.


Teri L. Morante
Chief Deputy Director

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 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 resident insurance producer with qualifications in casualty and property and authorized to transact the business of insurance in the state of Michigan.
3. At all relevant times, Joseph Jacobs Insurance Agency dba Jacobs Insurance Agency dba Joseph Jacobs Insurance Agency, Inc. (Joseph Jacobs Insurance) was a licensed resident producer agency with qualifications in accident, health, casualty, life, property, and variable annuities and authorized to transact the business of insurance in the state of Michigan.
4. Between January of 2011, and November of 2014, Respondent was employed by Joseph Jacobs Insurance. Respondent's responsibilities at Joseph Jacobs Insurance included quoting new policies, gathering appropriate documentation required to bind a policy, collecting premiums for policies, and submitting all required information to insurers for determination and issuance of insurance policies.
5. Based upon the information as set forth below, protection of the public health, safety, and/or welfare require emergency action.

I.

6. On or about March 11, 2014, Respondent established a Flint¹ account.
7. Between March 5, 2014, and September 20, 2014, Respondent's Flint account transactions included 78 deposits totaling \$49,174.16.

¹ "Flint is a feature-rich app that allows you to manage many core aspects of your business from anywhere - all you need is your mobile device. With secure credit card payment processing, mobile invoicing, simple online selling tools and digital coupon promotions, Flint combines an array of payment and customer marketing tools into one app. No extra hardware or merchant account needed and just one set of transaction fees." Flint charges a 1.95% fee for processing a Visa or MasterCard Debit card and a 2.95% fee for processing a Visa or MasterCard Credit payment.

8. Between March 5, 2014, and September 22, 2014, Respondent transferred \$48,422.03 from his Flint account into his personal bank account at PNC Bank.
9. On or about September 25, 2014, Respondent established a Square² account.
10. Between September 25, 2014, and October 8, 2014, nine deposits were made into Respondent's Square account, totaling \$11,847.80.
11. Between September 26, 2014, and October 9, 2014, Respondent transferred \$5,888.88 from his Square account into his personal bank account at PNC Bank.
12. Respondent used all funds deposited into his PNC Bank account for his personal use.
13. On or about October 16, 2014, the Oakland County Sheriff's Office received a complaint from Joseph Jacobs Insurance. The complaint alleged that Respondent surreptitiously deposited premiums he collected from insureds into his personal bank account.
14. Between December 17, 2014, and January 8, 2015, Detective Liss with the Oakland County Sheriff's Office interviewed three customers of Joseph Jacobs Insurance. All three customers received insurance quotes from Respondent, made premium payments to Respondent, and received certificates of insurance. However, the customers subsequently learned that Respondent did not submit their insurance premiums to insurers, resulting in the cancellation of their insurance policies.
15. On November 12, 2014, the Department of Insurance and Financial Services (DIFS) received notice from Cincinnati Insurance Companies (Cincinnati Insurance) that it had terminated its business relationship with Respondent because of the alleged fraud.
16. As a licensee, Respondent knew or had reason to know that Section 1207(1) of the Code, MCL 500.1207(1), states in pertinent part that "[a]n 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."
17. As a licensee, Respondent knew or had reason to know that Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), states that "[i]n 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 ... for [v]iolating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner."
18. Respondent violated Section 1207(1) of the Code by collecting premiums from insureds and failing to remit the premiums to insurers giving rise to justification for revocation pursuant to Section 1239(1)(b) of the Code, MCL 500.1239(1)(b).

² Square is very similar to Flint, it allows a means for merchants to accept card payments. Square charges a fee of 2.75% of the transaction.

19. As a licensee, Respondent knew or had reason to know that Section 1239(1)(d) of the Code, MCL 500.1239(1)(d), states that “[i]n 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 ... for [i]mproperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.”
20. Respondent has provided justification for suspension or revocation of licensure pursuant to MCL 500.1239(1)(d) by failing to remit to insurers the premiums he collected from insureds.
21. As a licensee, Respondent knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), states that “[i]n 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 ... for ... [u]sing fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.”
22. Respondent has provided justification for suspension or revocation of licensure pursuant to MCL 500.1239(1)(h) by improperly withholding, misappropriating, or converting premiums he received from insureds.
23. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order the payment of a civil fine, the refund of any overcharges, that restitution be made to cover losses, damages or other harm attributed to Respondent’s violations of the Code, and/or other licensing sanctions, including revocation of licensure pursuant to MCL 500.1207(1), MCL 500.1239(1)(b), MCL 500.1239(1)(d), and MCL 500.1239(1)(h).

II.

24. On December 29, 2014, DIFS sent an email to Respondent’s email address of record requesting information concerning his apparent failure to remit insureds’ premiums to insurers.
25. On December 29, 2014, DIFS also sent letters to Respondent’s addresses of record requesting an explanation for his failure to remit insurance premiums.
26. On or about December 30, 2014, the U.S. Postal Service returned the letter addressed to Respondent at [REDACTED], citing [REDACTED], as Respondent’s forwarding address.
27. A Michigan Secretary of State Database search also indicated that Respondent resides at [REDACTED].

28. On January 5, 2015, DIFS received an email from Respondent indicating that he would provide documentation at the end of February 2015 to prove that he remitted the insureds' premiums to insurers.
29. On or about January 13, 2015, Respondent provided DIFS with his telephone number.
30. DIFS attempted to arrange a meeting with Respondent on numerous occasions to discuss the allegations cited herein, however, the attempts were unsuccessful. Respondent has not provided any evidence to demonstrate that he remitted to insurers the insureds' premiums he collected.
31. As a licensee, Respondent knew or had reason to know that Section 249(a) of the Code, MCL 500.249(a), states that "[f]or the purposes of ascertaining compliance with the provisions of the insurance laws of the state ... the commissioner ... may initiate proceedings to examine the accounts, records, documents and transactions pertaining to ... [a]ny insurance agent...."
32. As a licensee, Respondent knew or had reason to know that Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), states that "[i]n 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 ... for ... [v]iolating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner."
33. Respondent has provided justification for suspension or revocation of licensure because he knew or should have known that he was violating the law by failing to respond to DIFS' request for information to determine if he is in compliance with the law.
34. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order the payment of a civil fine for Respondent's violations of the Code, and/or other licensing sanctions, including revocation of licensure pursuant to MCL 500.150, MCL 500.249(a), and MCL 500.1239(1)(b).
35. The alleged conduct of Respondent indicates that Respondent does not possess the requisite character and fitness to be engaged in the business of insurance, and further indicates that Respondent does not command the confidence of the public nor warrant the belief that Respondent will comply with the law.
36. Respondent's actions demonstrate a pattern of behavior constituting a serious threat to the public.
37. In order to protect the public from further financial damage and other harm and to protect the public interest, a summary suspension of licensure is appropriate and necessary.