

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of Financial and Insurance Regulation

In the matter of:

Office of Financial and Insurance Regulation

Enforcement Case No. 10-7743

Petitioner,

v

Princess A. Stewart,
System ID No. 0071582

And

God Bless America Insurance Agency, LLC.
System ID No. 0013522

Respondents.

CONSENT ORDER AND STIPULATION

Issued and entered
on 3/29, 2011
by Stephen R. Hilker
Chief Deputy Commissioner

I.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all times relevant, Princess Stewart (hereafter, "Respondent Stewart"), System ID: 0071582, is a licensed resident producer with qualifications in Accident and Health, Property, Casualty, Life, and Variable Annuities.
2. At all times relevant, God Bless America Insurance Agency, LLC, System ID: 0013522, is a licensed resident producer with qualifications in Accident, Health, Property, Casualty, Life, and Variable Annuities.
3. Respondents' principal place of business is located at 21590 Greenfield Road, Suite 201, Oak Park, MI 48237-3020.

4. As licensed insurance producers, Respondents knew or had reason to know that Sections 1239(1)(b), (d) & (h) of the Michigan Insurance Code (Code), MCL 500.1239(1)(b), (d) & (h), state:

(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:

(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.

* * *

5. Section 1244(1)(a-c), MCL 500.1244(1)(a-c), provides that the Commissioner may order the payment of a civil fine of up to \$500.00 for each violation and up to \$2,500.00 for each violation if the Commissioner finds that the person knew or reasonably should have known that he or she was in violation of the Code. The Commissioner may also require the person to refund any overcharges and pay restitution to cover losses, damages, or other harm they may have caused by violating the Code.
6. Respondents have failed to uphold the standards as described below.

II. ALLEGED VIOLATIONS

1. On February 4, 2009, the Office of Financial and Insurance Regulation (OFIR) received a written complaint from [REDACTED] (Complainant) alleging fiduciary misconduct on behalf of Respondents.

2. On October 30, 2007, Complainant made a premium payment of \$1,310.00 to Respondents. Respondents are appointed by Civic Property & Casualty Company (Civic), a subsidiary of Farmers Insurance Group (Farmers). If Farmers had received this payment, Complainant's policy would have been effective until October 10, 2008.
3. Instead, Respondents made partial payments to Farmers between October 10, 2007 and October 10, 2008, totaling \$1,139.06, and failed to remit \$170.94 of the premium that Complainant paid in full on October 30, 2007.
4. On November 1, 2007, Farmers converted the policy to standard billing with monthly invoices. On this date, a monthly invoice was sent to Complainant for \$335.53. The due date was November 25, 2007.
5. On October 1, 2008, a cancellation notice was sent to Complainant showing \$240.12 due by October 25, 2008.
6. On October 25, 2008, the policy was cancelled by Farmers for non-payment of premium.
7. On October 27, 2008, Complainant's home suffered a fire loss. Because the policy cancelled October 25, 2008, Complainant's loss was not covered when the initial claim was submitted.
8. On November 4, 2008, Complainant paid Respondents \$600.00 for her policy. However, Farmers showed no record of receiving \$600.00 for the policy.
9. On November 5, 2008, Farmers received a \$250.00 payment from Respondents and the policy was reinstated with a lapse in coverage.
10. On December 12, 2008, a cancellation notice was sent to Complainant requesting a \$226.69 payment by January 5, 2009.
11. On January 7, 2009, Farmers received a payment in the amount of \$226.69 from Respondents.
12. According to Farmers emailed response to OFIR Investigator Sharpe, on February 9, 2009, a cancellation notice was sent to Complainant requesting payment of \$240.08 by March 5, 2009. Payment was not received by March 5, 2009, and the policy was cancelled for non-payment of premium.
13. On March 31, 2010, [REDACTED] Director of F.A.C.T. Claims, Farmers Insurance Group, responded to Investigator Sharpe stating that after reviewing the copies of Ms. [REDACTED] cancelled checks that were made out to God Bless America Insurance Agency, she agreed "that Ms. [REDACTED] did remit her premium payments timely to her agent, and her loss of 10/27/08 occurred during her renewal period."

15. Respondents knew or had reason to know that Section 1239(1)(d) of the Code allows the Commissioner to place on probation, suspend, revoke, or levy a civil fine under section 1244 or any combination thereof, for “Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.”
16. Respondents knew or had reason to know that Section 1239(1)(h) of the Code, allows the Commissioner to place on probation, suspend, or revoke an insurance producer's license or levy a civil fine under Section 1244, for “Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.”
17. By converting the money received in the course of doing insurance business to their own use, Respondents “improperly withheld, misappropriated or converted money or property received in the course of doing insurance business,” in violation of Chapter 12, Section 1239(1)(d) of the Code and violated insurance laws and regulation, under Chapter 12, Section 1239(1)(b) of the Code.
18. By converting the money received in the course of doing insurance business to their own use, Respondents engaged in “fraudulent, coercive, or dishonest practices” and demonstrated “incompetence, untrustworthiness, or financial irresponsibility in the conduct of business” in violation of Chapter 12, Section 1239(1)(h) of the Code and violated the insurance laws and regulation under Chapter 12, Section 1239(1)(b) of the Code.
19. Respondents knew or had reason to know that Section 1207(1) of the Code requires an agent to 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.
20. Based upon the documents received and reviewed by the OFIR staff, Respondents failed to be the fiduciary for all money received during the course of insurance business and Respondents failed to remit insurance premiums that were due and owing to Farmers, which are grounds for denial, suspension, revocation, licensing sanctions and/or civil fines under Section 1244 of the Code.

III.
ORDER

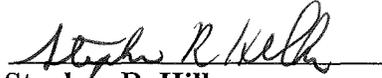
Based upon the Findings of Fact and Conclusions of Law above and Respondents' stipulation, the Commissioner **ORDERS** that:

1. Respondents shall CEASE and DESIST from violating MCL 500.1239(1)(b), MCL 500.1239(1)(d), MCL 500.1239(1)(h), and any other insurance laws as related to timely remitting the premiums of their clients.
2. Respondents shall take all steps necessary to establish procedures under which all checks received from insureds as payment of insurance premiums shall, prior to deposit, reflect the insurer's name and policy number of the policy(s) for which payment is being tendered.
3. Respondents shall hold all premium moneys separate from other funds in accordance with the following:
 - a. If Respondents do not make immediate remittance of premium to insurers, Respondents shall not deposit premiums in office operating accounts but shall keep the moneys in a separate account from which disbursement may not be made other than for payment of premium to insurers, the return of premiums to the insured or the transfer of commissions or the withdrawal of voluntary deposits.
 - b. The deposit of a premium collection in a separate bank account shall not be construed as comingling by the Respondents of the net premium and of the commission portion of the premium.
 - c. The premium account balance shall include funds sufficient to pay premiums collected and any amount delinquent or in dispute with the insurers. Upon reconciliation of delinquent or disputed accounts, excess moneys remaining in the premium bank account may be withdrawn as if they had been voluntary deposits.
 - d. The premium account shall be reconciled not less than once a month. The reconciliation shall ascertain the actual cash balance in the account and compare it with the sum of the premiums collected by the Respondents and paid to insurers each month. The reconciliation may be done electronically or by any other appropriate method and shall be done not more than 45 business days after receipt of the bank statement.
4. Respondents shall keep an accurate account of premiums collected and deposited into the premium account and premiums paid to insurance carriers from the premium account.

5. Respondents shall pay to the State of Michigan, through OFIR, a civil fine of \$1,500. Respondents shall pay the fine within 30 days of the invoice date as indicated on the OFIR invoice.
6. Respondents agree that they will immediately make restitution in the amount of \$294.25 to Farmers. Furthermore, Respondents shall provide proof of this payment, and its receipt by Farmers to Office of General Counsel, Staff Attorney Conrad L. Tatnall, no later than 60 days from the entry of this Order
7. Respondent Stewart shall contact OFIR and enroll in the next regularly scheduled Insurance Regulation Seminar. Upon completion of the seminar, Respondent Stewart shall submit proof of her successful completion to Office of General Counsel, attention Conrad L. Tatnall.
8. If the terms of this ORDER are not complied with, all existing OFIR licenses issued to Respondents under the Michigan Insurance Code shall be summarily REVOKED.

IT IS SO ORDERED

Dated: 3/28/11

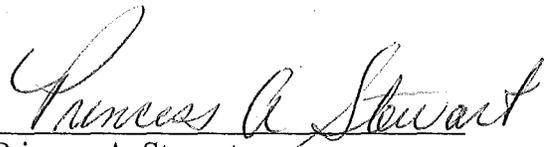

Stephen R. Hilker
Chief Deputy Commissioner

IV.
STIPULATION

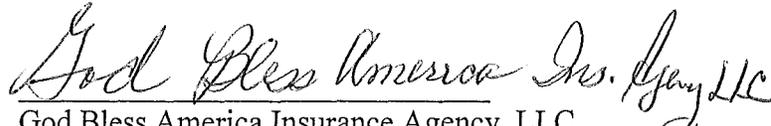
Respondents have read and understand the Consent Order above. Respondents agree that the Chief Deputy Commissioner has jurisdiction and authority to issue this Consent Order pursuant to the Michigan Insurance Code. Respondents waive their right to a hearing in this matter if this Consent Order is issued. Respondents understand that the Consent Order and Stipulation will be presented to the Chief Deputy Commissioner for approval and the Chief Deputy Commissioner may or may not issue this Consent Order. Respondents waive any objection to the Commissioner deciding this case following a hearing in the event the Consent Order is not approved.

For Purposes of this settlement and stipulation, Respondents admit to the Findings of Fact and Conclusions of Law set forth in the above Consent Order, and agrees to the entry of the Consent Order.

Dated: 3-4-11

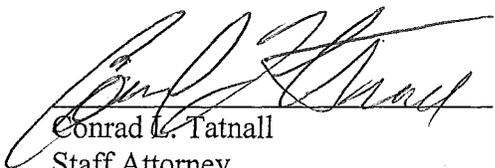

Princess A. Stewart

Dated: 3-4-11


God Bless America Insurance Agency, LLC

The Office of Financial and Insurance Regulation staff approves this stipulation and recommends that the Chief Deputy Commissioner issue the above Consent Order.

Dated: 3/28/11


Conrad L. Tatnall
Staff Attorney