

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

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

Richard L. Abbott
System ID No. 0312105

Enforcement Case No. 11-11149

Respondent
_____ /

Issued and entered
on 5/11/11 2011
by Stephen R. Hilker
Chief Deputy Commissioner

CONSENT ORDER AND STIPULATION

A. FINDING OF FACTS AND CONCLUSIONS OF LAW

It is alleged that the following statements are true and correct:

1. On December 1, 2010, the Office of Financial and Insurance Regulation (OFIR) received a complaint from American Surety Co. (American Surety), alleging Respondent failed to remit premium on bail bond policies underwritten by American Surety. The complaint was filed with OFIR after Respondent failed to remit American Surety's portion of premium within 21 days of execution.
2. Between October 29, 2009, and December 28, 2009, Respondent executed bonds underwritten by American Surety and collected \$12,012.50 in gross premium.
3. Respondent owed \$2,437.50 in net premium to American Surety for these bonds
4. American Surety's contract with Respondent states, "[w]ithin Twenty-One (21) Days of the date upon which a bond is written by Representative or Sub-Agent, the Representative shall remit to the Company, as its portion of the bond premium."
5. On January 7, 2010, Respondent made payment by check in the amount of \$2,437.50 to American Surety for bonds executed on October 29, 2009, through December 28, 2009.
6. On January 19, 2010, Respondent's check was returned for non sufficient funds.
7. Respondent has not resubmitted a premium check to American Surety.

8. On December 15, 2010, an OFIR Investigator sent an email and a letter to Respondent, explaining the allegations and requesting a response by December 22, 2010.
9. On December 17, 2010, Respondent called the OFIR Investigator in response to the December 15, 2010 letter. OFIR Investigator explained to Respondent that a written response must be submitted to OFIR, supporting or denying the allegations, with documentation.
10. On December 20 & 21, 2010, OFIR Investigator sent another email to Respondent requesting a response by December 22, 2010.
11. Respondent failed to respond in writing to letter and emails sent by OFIR Investigator on December 15, December 20, and December 21, 2010.
12. As a licensee, Respondent knew or had reason to know that Section 1207(1) of the Michigan Insurance Code, (hereafter Code) provides 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."
13. As a licensee, Respondent further 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."
14. As a licensee, Respondent further knew or had reason to know that Section 1239(1)(h) 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 "Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere."
15. As a licensee, Respondent further knew or had reason to know that Section 249 of the Code, allows the Commissioner for the purposes of ascertaining compliance with the provisions of the insurance laws of the state, the Commissioner, as often as he deems advisable, may initiate proceedings to examine the accounts, records, documents and transactions pertaining to an insurance producer.
16. Based upon the actions listed above, Respondent has committed acts that are grounds for the Commissioner ordering payment of a civil fine, refund of any overcharges, restitution be made to insureds to cover losses, damages or other harm attributed to Respondent's violation of the Code, and/or licensing sanctions under Section 1244(1) of the Code for the Respondent's violating Section 249, 1207(1), 1239(1)(d), and 1239(1)(h) of the Code.

B. ORDER

Based upon the findings of fact and conclusions of law above, and Respondent's stipulation to said facts, it is hereby ORDERED that:

1. Respondent shall immediately cease and desist from operating in a manner that violates Section 1207 and 1239 of the Code, MCL 500.1207 and 500.1239.
2. Respondent shall pay restitution of \$2,437.50 to American Surety Company. On March 9, 2011, Respondent sent American Surety Company a cashier check for \$2,437.50.
3. Respondent shall pay to the State of Michigan, a civil fine of One Thousand Five Hundred Dollars (\$1,500.00.). Upon issuance and entry of this Order, OFIR will send Respondent two Invoices for \$750.00 each. Respondent shall pay the fines by the due date printed on the Invoices.

OFFICE OF FINANCIAL AND
INSURANCE REGULATION

By: 
Stephen R. Hilker
Chief Deputy Commissioner

C. STIPULATION

I have read and understand the consent order above. I agree that the Commissioner has jurisdiction and authority to issue this consent order pursuant to the Insurance Code. I waive the right to a hearing in this matter if this consent order is issued. I understand that this stipulation and consent order will be presented to the Commissioner for approval and the Commissioner may or may not issue this consent order. I waive any objection to the Commissioner deciding this case following a hearing in the event the consent order is not approved. I admit the facts set forth in the above consent order and agree to the entry of this order.



Richard L. Abbott
System ID No. 0312105

Dated: April 20th 2011

OFIR staff approves this stipulation and recommends that the Commissioner issue the above Consent Order.



William R. Peattie

Dated: 5/2/11