

**STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

**Before the Commissioner of Financial and Insurance Regulation**

**In the Matter of:**

**National Processing Center  
(a Texas Corporation)**

**Enforcement Case No. 11-11426**

**Christopher J. Covington  
(a Texas citizen)**

**Respondents .**

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Issued and entered,  
this 22<sup>nd</sup> day of February, 2012,  
by **Annette E. Flood,**  
**Chief Deputy Commissioner**

**ORDER TO CEASE AND DESIST  
and  
NOTICE OF OPPORTUNITY FOR HEARING**

The Office of Financial and Insurance Regulation ("OFIR"), pursuant to its authority to administer and enforce the Insurance Code of 1956 (the "Code"), MCL 500.100 et seq., 1956 PA 218, as amended, and by the authority granted to the Commissioner thereunder, hereby orders National Processing Center and Christopher Covington (collectively, "Respondents") to immediately cease and desist from conducting business as insurer and/or insurance agent without first obtaining a license or other authority under the Code. Respondents are also notified of an opportunity to request a hearing on this matter.

**I. Order to Cease and Desist**

1. The authority to issue the cease and desist order is found in Section 251(1) of the Code, which states:

In the reasonable exercise of discretion, the commissioner may issue a cease and desist order if the commissioner finds any of the following:

- (a) A person is conducting transactions of insurance for which a certificate of authority is required by this act without having obtained a certificate of authority.
- (b) A person is acting as an insurance agent, solicitor, adjuster, or counselor without a license as required by this act.

(c) A person is engaged in an act or practice in the business of insurance for which authority from or notification to the commissioner is required by this act and the person has not received authority or given notification.

(d) A person authorized to engage in the business of insurance under this act is engaged in conduct that presents an immediate danger to public health, safety, or welfare. MCL 500.251(1).

2. A review of OFIR records reveals that Respondents are not licensed under the Code.
3. Under Section 1201a of the Code, it is a violation for a person to sell, solicit, and negotiate insurance in this state for any line of insurance without first obtaining a license or qualification for that line. MCL 500.1201a(1).
4. "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers. MCL 500.1201(k).
5. "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company. MCL 500.1201(l).
6. "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company. MCL 500.1201(m).
7. Under Rule 4 of the Administrative Code 500.654(6), an insurer, agent, or other person shall not use a lead-generating device or list of prospective insureds compiled therefrom unless such lead-generating device contains the following or substantially similar language in the same size of type as the rest of the information and is not hidden or placed in a position to render it obscure: "This request for information is insurance related and if you respond you may be contacted in an attempt to sell you insurance."
8. Under Rule 14 of the Administrative Code 500.664(3):  
Advertisements, envelopes, or stationery which employs color, words, letters, initials, symbols, or other devices which are similar to those used by governmental agencies is not permitted if it may lead the public to believe either of the following:
  - (a) That the advertised coverages are somehow provided or endorsed by such governmental agencies.
  - (b) That the advertiser is the same as, is connected with, or is endorsed by, such governmental agencies.
9. OFIR Staff received information about possible unlicensed activity by Respondents.

The investigation revealed that Respondents have engaged in activities regulated by the Code without the requisite license, and have violated the insurance laws of this state.

10. Specifically, OFIR Staff found that the Respondents were using the US Postal Service to send lead generating devices to Michigan residents for the purpose of compiling personal information for future insurance solicitations. The lead generating device pertained to Medicare. It was printed in red, white and blue and requested that recipient respond with his or her name, birthdate, telephone number, spouse's name and birthdate. The reply card was addressed to "National Processing Center PO Box 409, Durant OK 74702-9918." Although the lead generating device implies it is from a government agency, it is not.
11. Furthermore, the lead generating device did not contain the required disclosure: "[t]his request for information is insurance related and if you respond you may be contacted in an attempt to sell you insurance."
12. OFIR Staff found that PO Box 49 is owned by the Respondents. The Respondents applied and paid for the prepaid postage permits used to send out the lead generating devices and to receive the reply cards from Michigan residents.
13. Pursuant to the Code, the Respondents' lead generating device and ongoing business activities as an insurer, solicitor or insurance agent constitutes a negotiation, offer to sell, or solicitation of insurance without first obtaining authority, certification or licensure, and is a violation of the Code.
14. Respondents' lead generating device is a violation of the Code where it does not make the appropriate disclosure that the lead generating device was a request for information that is insurance related and if the recipient responded he/she may be contacted in an attempt to sell him/her insurance.
15. Respondents' lead generating device is a violation of the Code where it uses the colors of red, white and blue and makes the device appear as if it is government issued and consumers may believe it is government issued when it is not.

It is therefore **ORDERED** that Respondents Christopher J. Covington and National Processing Center immediately cease and desist from mailing its lead generating devices to Michigan residents and from conducting any other business activity regulated by the Code without first obtaining the requisite certification, authority, and/or license under the Code.

A person who violates or otherwise fails to comply with a cease and desist order under this section is subject to 1 or more of the following:

- (a) Payment of a civil fine of not more than \$1,000.00 for each violation not to exceed an aggregate civil fine of \$30,000.00. However, if the person knew or reasonably should have known the person was in violation of the order, payment of a civil fine of not

more than \$25,000.00 for each violation not to exceed an aggregate civil fine of \$250,000.00.

(b) Suspension or revocation of the person's license or certificate of authority.

(c) Complete restitution, in the form, amount, and within the period determined by the commissioner, to all persons in this state damaged by the violation or failure to comply.

The commissioner may recover reasonable attorney fees if judicial action is necessary for enforcement of a cease and desist order under this section.

The Commissioner of OFIR specifically retains jurisdiction of the matter contained herein to issue such further order or orders as he may deem just, necessary, or appropriate so as to assure compliance with the law and protect the interest of the public.

OFFICE OF FINANCIAL AND  
INSURANCE REGULATION

  
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Annette E. Flood  
Chief Deputy Commissioner

## II. Notice of Opportunity for Hearing

Section 251(4) and (5) of the Code provides:

(4) A person who is the subject of a cease and desist order under this section may contest the order by requesting a hearing before the commissioner not later than 30 days after the order is delivered or mailed to the person. Within 10 days after receiving the request, the commissioner shall commence a hearing in accordance with the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws. Pending the hearing, the cease and desist order continues in full force and effect unless the order is stayed by the commissioner.

(5) Within 5 business days after the hearing, the commissioner shall affirm, modify, or set aside in whole or in part the cease and desist order.

Order to Cease and Desist  
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Should the Respondents wish to request a hearing relating to the Commissioner's Order to Cease and Desist, a hearing must be requested in writing and must be addressed to:

Dawn Kobus, Hearings Coordinator  
Office of Financial and Insurance Regulation  
Ottawa State Office Building, Third Floor  
611 W. Ottawa Street  
Lansing, MI 48909

Please be advised that any statements made are voluntary and may be used in any proceeding that may be held. If a hearing is requested, the Respondents have the right, at their expense, to legal representation at the hearing. A licensed attorney must represent any Respondents that are corporations. Any contact with OFIR shall be directed to Elizabeth V. Bolden, Staff Attorney, at 517-241-6610.

