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

Before the Commissioner of the Office of Financial and Insurance Regulation

In the Matter of:

Donald M. Diamond
System ID No. 0562440

Enforcement Case No. 11-11293

Ethos Insurance- Michigan

Ethos Insurance Group

Ethos Mutual Insurance Company

Monaco Motors, Ltd.

Darrell Lees

Respondents
_____/

Issued and entered
On May 20, 2011
by Annette E. Flood
Chief Deputy Commissioner

ORDER TO CEASE AND DESIST

The Office of Financial and Insurance Regulation (OFIR) of the Michigan Department of Licensing and Regulatory Affairs pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 *et seq*; the Michigan Insurance Code, 1956 PA 218, as amended; MCL 500.100 *et seq.* (Code), and the rules promulgated under the Code, says that:

I
BACKGROUND

1. At all pertinent times, Donald M. Diamond (Diamond") was an individual located at: 12902 Peach Meadow Drive, Cypress, Texas 77429.

2. On December 15, 2010, the Office of Financial and Insurance Regulation ("OFIR") licensed Respondent Diamond as a non-resident insurance producer.

3. Respondent Diamond has qualifications in Accident and Health, Life, and Personal Lines.

4. From January 18, 2011 to May 9, 2011, Respondent Diamond had a Personal Lines appointment with Progressive Michigan Insurance Company.

5. On May 8, 2011, Progressive Michigan Insurance Company cancelled Respondent Diamond's appointment.

6. At all pertinent times, Respondent Diamond did not have a Personal Lines appointment with another insurance company licensed in the State of Michigan.

7. At all pertinent times, Respondent Ethos Insurance – Michigan was not licensed by OFIR as an insurance producer, an insurance agency or as an insurance company to conduct the business of insurance in the State of Michigan.

8. At all pertinent times, Respondent Ethos Insurance Group was not licensed by OFIR as an insurance producer, an insurance agency or as an insurance company to conduct the business of insurance in the State of Michigan.

9. At all pertinent times, Respondent Ethos Mutual Insurance Company was not licensed by OFIR as an insurance producer, an insurance agency or as an insurance company to conduct the business of insurance in the State of Michigan.

10. At all pertinent times, Respondent Monaco Motors, Ltd. ("Monaco") was not licensed by OFIR as an insurance producer, insurance agency or as an insurance company to conduct the business of insurance in the State of Michigan.

11. At all pertinent times, Respondent Darrell Lees was not licensed by OFIR as an insurance producer to conduct the business of insurance in the State of Michigan.

12. In May 2011, OFIR received a complaint concerning Respondents Diamond, Ethos Insurance – Michigan, Ethos Insurance Group, Ethos Mutual Insurance Company. The complaint alleged that these Respondents were acting as an insurance producer, an insurance agency, and/or an insurance company by issuing certificates of no-fault insurance in the State of Michigan without proper licensure.

13. OFIR also has received information that Respondents Diamond, Ethos Insurance – Michigan, Ethos Insurance Group, and/or Ethos Mutual Insurance Company were selling, soliciting, or negotiating insurance at several locations in the State of Michigan.

14. On May 9, 2011, an OFIR Investigator went to Monaco Motors located at: 15290 Gratiot Ave., Detroit, Michigan 48205 and spoke with Darrell Lees.

15. Respondent Lees stated to the OFIR Investigator that he worked for Respondent Diamond and sold insurance in the State of Michigan for Respondents Diamond, Ethos Insurance – Michigan, Ethos Insurance Group, and/or Ethos Mutual Insurance Company. Respondent Lees further stated that he deposited all insurance premium money into a bank account controlled by Respondent Diamond.

16. Respondent Monaco advertised the availability and sale of no-fault auto insurance by Ethos Insurance.

17. The OFIR investigator obtained information and documentation showing Respondents Diamond, Ethos Insurance – Michigan, Ethos Insurance Group, and Ethos Mutual Insurance Company were selling, soliciting, and negotiating insurance in the State of Michigan on or before March 2010 and continue to do so to the present day.

18. Respondent Diamond did not have a valid non-resident insurance producer license until December 15, 2010 and a valid personal lines appointment until January 18, 2011.

19. At all pertinent times, Respondents Ethos Insurance – Michigan, Ethos Insurance Group, and/or Ethos Mutual Insurance Company did not have a license to sell, solicit, or negotiate insurance or act as an insurance company in the State of Michigan.

20. OFIR obtained insurance receipts given to customers that indicate that Respondent Ethos Insurance – Michigan, P.O. Box 1506, Cypress, TX 77410-1506, is the insurance agent and that the insurance policy is issued by Dairyland County Mutual ("DCM"), as the insurance company for these insurance policies.

21. DCM is not a licensed insurance company in the State of Michigan. DCM does not have any appointed insurance producers or insurance agencies in the State of Michigan. DCM did not receive any applications or any premium money from the Respondents for these insurance polices and DCM did not authorize the sale or underwriting of any insurance policies by any of the Respondents in the State of Michigan.

22. OFIR obtained documents showing the customers were to make future insurance premium payments to: Ethos Insurance – Michigan, P.O. Box 1506, Cypress, TX 77410-1506 or pay on-line at www.ethosins.com. Customers were instructed to make their check or money order payable to: Ethos Insurance – Michigan.

23. OFIR obtained documents showing that customers were given certificates purporting to be State of Michigan Certificates of No-Fault Insurance. The purported certificates listed: Dairyland Insurance Company c/o Dairyland County Mutual Ins as the insurance company and Ethos Insurance –Michigan as the insurance agent, or Ethos Insurance Group, LLC c/o Ethos Insurance Company as the insurance company and Ethos Insurance –Michigan as the insurance agent, or Farm Bureau Insurance of Michigan as the insurance company and Don Diamond Agency as the insurance agent, or Ethos Mutual Insurance Company as the insurance company and Ethos Insurance –Michigan as the insurance agent.

24. Respondent Lees stated to the OFIR Investigator that the purported certificates with Ethos Insurance Company or Ethos Mutual Insurance Company listed as the insurance company were a misprint. Respondent Lees alleged that Progressive Michigan Insurance Company was the correct insurance company.

25. Progressive Michigan Insurance Company is a licensed insurance company in the State of Michigan, but has no record of receiving any application for insurance or any insurance premium from any of the Respondents.

26. Dairyland Insurance Company is a licensed insurance company in the State of Michigan, but none of the Respondents have an appointment to write insurance business in the State of Michigan with Dairyland Insurance Company.

27. Farm Bureau Insurance of Michigan is a licensed insurance company in the State of Michigan, but none of the Respondents have an appointment to write insurance business in the State of Michigan with Farm Bureau Insurance of Michigan.

II
CONCLUSIONS OF LAW

WHEREAS, Section 251 of the Code, MCL 500.251 states that 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; and

WHEREAS, the Commissioner finds that under Section 1201a of the Code, a person shall not sell, solicit, or negotiate insurance in Michigan for any line of insurance unless the person is licensed for that qualification; and

WHEREAS, the Commissioner finds the Respondents Diamond, Ethos Insurance – Michigan, Ethos Insurance Group, Ethos Mutual Insurance Company, Monaco Motors, and Darrell Lees sold, solicited, or negotiated insurance in the State of Michigan without licenses; and

WHEREAS, the Commissioner finds that under 1208a of the Code a person shall not act as an agent of an insurer unless the producer becomes an appointed agent of that insurer; and

WHEREAS, the Commissioner finds the Respondents Diamond, Ethos Insurance – Michigan, Ethos Insurance Group, Ethos Mutual Insurance Company, Monaco Motors, and

Darrell Lees are acting as agents of insurers without being appointed agents of those insurers; and

WHEREAS, the Commissioner finds that a person must be licensed under Section 402 of the Code in order to conduct transactions of insurance; and

WHEREAS, the records of OFIR do not show that Respondent Diamond, Ethos Insurance – Michigan, Ethos Insurance Group, or Ethos Mutual Insurance Company are licensed under Section 402 of the Code to conduct transactions of insurance in the State of Michigan; and

WHEREAS, the Commissioner finds that, 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 of the Code for violating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner; and

WHEREAS, the Commissioner finds that Respondent Diamond violated, including but not limited, to Sections 402, 1201a, 1208a, 1239(1), 2005, and 4503 of the Code; and

WHEREAS, the Commissioner finds that under Section 1239 of the Code, the Commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under Section 1244 of the Code for improperly withholding, misappropriating, or converting money or property received in the course of doing insurance business; and

WHEREAS, the Commissioner finds that Respondent Diamond was improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business; and

WHEREAS, the Commissioner finds that under Section 1239 of the Code, the Commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under Section 1244 of the Code for intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance; and

WHEREAS, the Commissioner finds that Respondent Diamond was intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance; and

WHEREAS, the Commissioner finds that under Section 1239 of the Code, the Commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under Section 1244 of the Code for using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere; and

WHEREAS, the Commissioner finds that Respondent Diamond used fraudulent, coercive, or dishonest practices and demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere; and

WHEREAS, the Commissioner finds that under Section 1239 of the Code, the Commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under Section 1244 of the Code for knowingly accepting insurance business from an individual who is not licensed; and

WHEREAS, the Commissioner finds that Respondent Diamond knowingly accepted insurance business from an individual who is not licensed; and

WHEREAS, the Commissioner finds that under Section 2005 of the Code, an unfair method of competition and an unfair or deceptive act or practice in the business of insurance

means the making, issuing, circulating, or causing to be made, issued, or circulated, an estimate, illustration, circular, statement, sales presentation, or comparison which by omission of a material fact or incorrect statement of a material fact that misrepresents the terms, benefits, advantages, or conditions of an insurance policy; and

WHEREAS, the Commissioner finds that Respondent Diamond committed an unfair or a deceptive act or practice in the business of insurance in violated Section 2005 of the Code by misrepresenting the terms, benefits, advantages, or conditions of an insurance policy; and

WHEREAS, the Commissioner finds that under Section 4503 of the Code a fraudulent insurance act includes, but is not limited to, acts or omissions committed by any person who knowingly, and with an intent to injure, defraud, or deceive; and

WHEREAS, the Commissioner finds that Respondents Diamond, Ethos Insurance – Michigan, Ethos Insurance Group, and Ethos Mutual Insurance Company are violating Section 4503 of the Code by committing fraudulent insurance acts; and

WHEREAS, based on the all of the foregoing, the Commissioner finds that Respondents Diamond, Ethos Insurance – Michigan, Ethos Insurance Group, Ethos Mutual Insurance Company, Monaco Motors, Ltd. and Darrell Lees are engaged in acts and practices that violate the Code; and

WHEREAS, the Commissioner finds this action necessary and appropriate in the public interest for the protection of the public and consistent with the purposes fairly intended by the policy and provisions of the Code.

IT IS THEREFORE ORDERED, pursuant to Section 251 of the Code, that Respondents Diamond, Ethos Insurance – Michigan, Ethos Insurance Group, Ethos Mutual Insurance Company, Monaco Motors, Ltd. and Darrell Lees shall immediately **CEASE AND DESIST**

from violating Section 1201a of the Code by acting as an insurance producer in the State of Michigan.

IT IS FURTHER ORDERED, pursuant to Section 251 of the Code, that Respondents Diamond, Ethos Insurance – Michigan, Ethos Insurance Group, Ethos Mutual Insurance Company, Monaco Motors, Ltd. and Darrell Lees shall immediately **CEASE AND DESIST** from violating Section 1208a of the Code by acting as an agent of an insurer without being appointed as an agent of that insurer.

IT IS FURTHER ORDERED, pursuant to Section 251 of the Code, that Respondents Diamond, Ethos Insurance – Michigan, Ethos Insurance Group, and Ethos Mutual Insurance Company shall immediately **CEASE AND DESIST** from violating Section 402 of the Code by conducting transactions of insurance in the State of Michigan.

IT IS FURTHER ORDERED, pursuant to Section 251 of the Code, that Respondent Diamond shall immediately **CEASE AND DESIST** from committing acts in violation of Section 1239 of the Code.

IT IS FURTHER ORDERED, pursuant to Section 251 of the Code, that Respondent Diamond shall immediately **CEASE AND DESIST** from committing acts in violation of Section 2005 of the Code.

IT IS FURTHER ORDERED, pursuant to Section 251 of the Code, that Respondents Diamond, Ethos Insurance – Michigan, Ethos Insurance Group, and Ethos Mutual Insurance Company shall immediately **CEASE AND DESIST** from violating Section 4503 of the Code by committing fraudulent insurance acts.

A person who violates or otherwise fails to comply with a cease and desist order is subject to 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. The Commissioner may also recover reasonable attorney fees if judicial action is necessary for enforcement of a cease and desist order under this section.

A person who is the subject of a cease and desist order 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. Pending the hearing, the cease and desist order continues in full force and effect unless the order is stayed by the Commissioner. Any request for a hearing should be addressed to: the Office of Financial and Insurance Regulation, Attention: Hearing Coordinator Dawn Kobus, P.O. Box 30220, Lansing, Michigan 48909.

MICHIGAN DEPARTMENT OF
LICENSING AND REGULATORY AFFAIRS

By: Annette E. Flood

Annette E. Flood
Chief Deputy Commissioner
Office of Financial and Insurance Regulation