

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

Before the Commissioner of the Office of Financial & Insurance Regulation

In the Matter of:

Robby J. Sadlak

Enforcement Case No. 10-10193

System ID No. 082732

Respondent.

**Issued and entered
on 5/2/11, 2011
by **Stephen R. Hilker**
Chief Deputy Commissioner**

CONSENT ORDER AND STIPULATION

FINDINGS OF FACTS AND CONCLUSIONS OF LAW

1. At all pertinent times involved herein, Robby J. Sadlak (Respondent), was a licensed resident producer authorized to conduct business on behalf of an insured, in the State of Michigan, under a policy of insurance.
2. As a licensed insurance producer, Respondent knew or had reason to know that Section 1239(1)(h) provides that 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 any 1 or more of the following causes:
 - (h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.
3. On December 11, 1996, the (Trust) was executed.
4. On October 9, 1998, Respondent was designated as trustee of the Trust in a document entitled Designation of Successor Trustee,
5. On October 12, 1998, Respondent signed an Acceptance of Trust document accepting the appointment as trustee.

6. As trustee, Respondent owed certain duties to the Trust beneficiaries. According to the laws governing trusts at the relevant time, a trustee “shall act as would a prudent person in dealing with the property of another, including following the standards of the Michigan prudent investor rule.” MCL 700.7302(repealed by PA 46 of 2009).
7. The Michigan prudent investor rule requires that the “fiduciary shall invest and manage assets held in a fiduciary capacity as a prudent investor would To satisfy this standard, the fiduciary must exercise reasonable care, skill, and caution.” MCL 700.1502. Further, to be prudent includes acting with care, diligence, integrity, fidelity and sound business judgment. *See In re Buhl's Estate*, 211 Mich 124; 178 NW 651 (1920). In addition, the courts have imposed on the fiduciary duties of honesty, loyalty, restraint from self-interest and good faith. *Hertz v Miklowski*, 326 Mich 697, 700; 40 NW2d 452 (1950).
8. On April 17, 2003, Respondent executed a Resolution to open a bank checking account for the Trust granting Respondent the authority to maintain the savings, checking, and other accounts of the Trust.
9. Beginning in November of 2003, and continuing until February of 2005, 22 checks were written on the above account bearing Respondent’s signature. The checks were written to the Genghis Grill and the Blue Pacific Grill; Respondent and his brother were owners of both establishments. The amount of the checks totaled \$777,000.00.
10. The Michigan State Police (MSP) interviewed Respondent in 2008 regarding the business ventures and the Trust. Respondent stated that he had not done any work for the Trust in almost 8 years and that any checks written after 2003 bearing his signature would be forgeries.
11. It has been alleged that Respondent, in his official capacity as trustee of the Trust, withdrew \$777,000.00 from the Trust to finance his business venture without the permission or consent of the beneficiaries of the Trust.
12. In the alternative, and if Respondent’s statements to the MSP were true and his signatures were forged on the checks, it has been alleged that Respondent nevertheless violated his fiduciary duties to the trust by failing to properly monitor the trust assets. Allowing \$777,000.00 to be withdrawn from the Trust over a two year period without noticing or taking any action is in no way acting with care, diligence, integrity, fidelity, and sound business judgment.
13. Based on the above facts, it is alleged that Respondent’s conduct demonstrates incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in this state.
14. Finally, based on the above actions, it is alleged that Respondent has committed acts that are grounds for the Commissioner ordering payment of a civil fine; restitution be made 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 violating Section 1239(1)(h) of the Code.

15. Respondent, while not admitting any of the allegations set forth above, does not contest the relief requested.

ORDER

Based on the allegations of fact and conclusions of law above, and Respondent's stipulation to entry of this Order, it is hereby **ORDERED** that:

1. Respondent shall immediately cease and desist from operating in a manner that violates Section 1239 of the Code, MCL 500.1239.
2. Respondent's license and authority are hereby **REVOKED**.



Stephen R. Hilker
Chief Deputy Commissioner

STIPULATION

Respondent has read and understands the consent order above. Respondent agrees that the Chief Deputy Commissioner has jurisdiction and authority to issue this consent order pursuant to the Insurance Code. Respondent waives the right to a hearing in this matter if this consent order is issued. Respondent understands that this stipulation and consent order will be presented to the Chief Deputy Commissioner for approval and the Chief Deputy Commissioner may or may not issue this consent order. Respondent waives any objection to the Commissioner deciding this case following a hearing in the event the consent order is not approved. Respondent neither admits nor denies the findings of fact and conclusions of law set forth in the above consent order and agrees to the entry of this order. Respondent admits that both parties have complied with the procedural requirements of the Michigan Administrative Procedures Act and the Insurance Code. Respondent has had an opportunity to review the Stipulation and Consent Order and have the same reviewed by legal counsel.



Robby J. Sadlak

Dated: 4/30/11

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



Scott Basel (P68335)
Attorney

Dated: 5-3-11