

STATE OF MICHIGAN  
DEPARTMENT OF LABOR AND ECONOMIC GROWTH  
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of Financial and Insurance Services

Office of Financial and Insurance  
Services,

Petitioner,

v

Case No. 06-546-L  
Docket No. 2006-705

Aaron Slaughter,

Respondent.

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For the Petitioner:

Laurence S. Wood (P34745)  
Office of Financial and Insurance Services  
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For the Respondent:

Aaron Slaughter  


Issued and entered  
this 3<sup>rd</sup> day of October 2006  
by John R. Schoonmaker  
Special Deputy Commissioner

**FINAL DECISION**

The Administrative Law Judge issued a Proposal for Decision dated August 31, 2006. She recommended that the Commissioner revoke Respondent's license to transact insurance business in Michigan and levy a civil fine against Respondent.

Neither party filed exceptions.

The factual findings in the PFD are in accordance with the preponderance of the evidence and the conclusions of law are supported by reasoned opinion. The PFD is attached, adopted, and made part of this final decision.

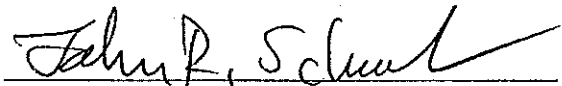
In addition, in light of the fraud and multiple breaches of fiduciary duty, a civil penalty in the amount of \$10,000.00 should be imposed.

In addition to the considerations above, it is important that the Respondent did not file exceptions to the Proposal for Decision. Michigan courts have long recognized that the failure to file exceptions constitutes a waiver of any objections not raised. *Attorney General v. Public Service Com'n*, 136 Mich.App. 52 (1984).

**ORDER**

Therefore, it is ORDERED that:

- 1) Respondent shall pay a civil penalty in the amount of \$10,000.00 to the State of Michigan within 60 days from the date of issuance of this Final Decision; and
- 2) Respondent's license to transact insurance business in Michigan is revoked.



John R. Schoonmaker  
Special Deputy Commissioner

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

In the matter of

Office of Financial and Insurance  
Services,  
Petitioner

v  
Aaron Slaughter,  
Respondent

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Docket No. 2006-705

Agency No. 06-546-L

Agency: Office of Financial & Insurance  
Services

Case Type: Sanction/Revocation

Issued and entered  
this 31<sup>st</sup> day of August, 2006  
by Lauren G. Van Steel  
Administrative Law Judge

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

Appearances: Laurence S. Wood, Attorney at Law, appeared as a representative for the Office of Financial and Insurance Services, Petitioner. Aaron Slaughter, Respondent, did not appear at the hearing nor did any attorney appear on Respondent's behalf.

This proceeding commenced with the filing of a Notice of Hearing dated July 21, 2006, scheduling hearing for August 23, 2006. The Notice of Hearing was issued pursuant to a Request for Hearing received by the State Office of Administrative Hearings and Rules on July 20, 2006, and an Order Referring Complaint for Hearing and Order to Respond, issued by the Chief Deputy Commissioner of Financial and Insurance Services on July 20, 2006, along with a Complaint, dated July 20, 2006,

under the provisions of the Insurance Code of 1956, 1956 PA 218, as amended, MCL 500.100 *et seq.*

The Notice of Hearing was sent by certified mail to Respondent at his last known address. The record contains a signed return receipt request card (post-marked July 25, 2006), indicating that Respondent received service of the Notice of Hearing. Further, the Notice of Hearing informed the parties that if they failed to appear at the scheduled hearing a default might be entered pursuant to Sections 72 and 78 of the Michigan Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.101, *et seq.* (hereafter "APA").

On August 23, 2006, hearing was held as scheduled. Neither Respondent, nor an attorney for Respondent, appeared at the hearing. Petitioner's representative requested to be allowed to proceed in Respondent's absence pursuant to Section 72 of the APA, being MCL 24.272, and that a default be granted on behalf of Petitioner against Respondent, pursuant to Section 78 of the APA, being MCL 24.278.

Sections 72(1) and 78(2) of the APA state as follows:

Sec. 72. (1) If a party fails to appear in a contested case after proper service, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party. MCL 24.72(1).

Sec. 78. (2) Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default or other method agreed upon by the parties. MCL 24.78(2).

In accordance with Sections 72(1) and 78(2) of the APA, the hearing proceeded in the absence of Respondent and a default was granted for Petitioner,

against Respondent. Petitioner did not present any witnesses at the hearing or offer any exhibits into evidence. Petitioner's representative requested that the undersigned Administrative Law Judge issue a Proposal for Decision, to include a recommendation that Respondent's license be revoked and a \$10,000.00 civil fine levied. Petitioner's representative did not request that any specific restitution amount be recommended. The record was closed at the conclusion of the hearing.

### ISSUES AND APPLICABLE LAW

The issues presented in this matter are whether Respondent has acted in violation of Sections 1207(1), 1239(1)(d)(e) & (h), 2005(a) & (f) and 2018 of the Insurance Code, as alleged in the Complaint.

Section 1207(1) of the Insurance Code states in pertinent part:

Sec. 1207. 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. MCL 500.1207(1).

Sections 1239(1)(d), (e) & (h) of the Insurance Code provide:

Sec. 1239. (1) In addition to any other powers under this act, the commissioner may place on probation, suspend, revoke, or refuse to issue 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:

\* \* \*

(d) Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

\* \* \*

(h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere. MCL 500.1239(1)(d), (e) & (h).

Sections 2005(a) & (f) provide as follows:

Sec. 2005. 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 does any of the following:

(a) Misrepresents the terms, benefits, advantages, or conditions of an insurance policy.

\* \* \*

(f) Makes a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of an insurance policy. MCL 500.2005(a) & (f).

Section 2018 of the Insurance Code states:

Sec. 2018. An unfair method of competition and an unfair or deceptive act or practice in the business of insurance include making false or fraudulent statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, money, or other benefit from an insurer, agent, broker, or individual. MCL 500.2018.

FINDINGS OF FACT

Based on the entire record in this matter, including the pleadings and default granted for Petitioner, the following findings of fact are established:

1. At all pertinent times, Aaron Slaughter, Respondent, was a licensed resident producer authorized to transact insurance business in the State of Michigan with qualifications in life insurance.
2. Respondent's last known address is 13516 Longacre, Detroit, Michigan 48227.
3. Respondent's last known business address is East Grand Blvd. 2995, Detroit, Michigan 48202.
4. As a licensed resident producer, Respondent knew or had reason to know that Section 1207 of the Insurance Code requires an insurance agent to act as 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.
5. Respondent further knew or had reason to know that Section 1239 of the Insurance Code provides that the Commissioner may revoke an insurance producer's license and/or levy a civil fine for improperly withholding, misappropriating, or converting money or property received in the course of doing insurance business; intentionally misrepresenting the terms of an

actual or proposed insurance contract or application for insurance; and for using fraudulent, coercive or dishonest practices in the conduct of business in the State of Michigan.

6. Respondent further knew or had reason to know that Section 2005 of the Insurance Code states that an unfair method of competition and an unfair or deceptive act or practice in the business of insurance is the making of misrepresentations for the terms, benefits, advantages, or conditions of an insurance policy and when making misrepresentations for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion, or surrender of an insurance policy.
7. Respondent further knew or had reason to know that Section 2018 of the Insurance Code states that an unfair or deceptive act or practice in the business of insurance includes the making of false or fraudulent statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, money, or benefit from an insurer, agent, broker, or individual.
8. Respondent has demonstrated fraudulent and dishonest practices, as discussed below.
9. On or about May 8, 2002, Respondent completed a Baltimore Life Insurance Company life insurance policy application for [REDACTED] [REDACTED], and [REDACTED]. The owner on each application of insurance is [REDACTED].

10. On or about March 19, 2003, [REDACTED] paid Respondent using a Travelers Express money order. The money order is payable to Baltimore Life.
11. Respondent negotiated the money order on or about March 21, 2003, and failed to remit the premium to Baltimore Life.
12. On or about April 16, 2003, [REDACTED] gave Respondent a money order payable to Baltimore Life in the amount of \$231.00.
13. Respondent negotiated the money order on or about April 22, 2003 and failed to remit the premium to Baltimore Life.
14. On or about December 17, 2003, [REDACTED] gave Respondent a money order payable to Baltimore Life in the amount of \$231.00.
15. Respondent negotiated the money order on or about December 22, 2003, and failed to remit the premium to Baltimore Life.
16. On or about March 2004, [REDACTED] gave Respondent a money order payable to Baltimore Life in the amount of \$231.00.
17. Respondent negotiated the money order on or about March 19, 2004, and failed to remit the premium to Baltimore Life.
18. On or about April 2004, [REDACTED] gave Respondent a money order payable to Baltimore Life in the amount of \$231.00.
19. Respondent negotiated the money order on or about April 22, 2005, and failed to remit the premium to Baltimore Life.

20. On or about July 2004, [REDACTED] son, [REDACTED], died. When [REDACTED] called Baltimore Life to inquire about his policy, she was told the policy had lapsed for non-payment of premium.
21. Respondent failed to remit premium payments, from [REDACTED] on behalf of three life insurance policies for her children, to Baltimore Life.
22. Respondent misled [REDACTED] to cash surrender her life insurance policies with North Carolina Mutual by claiming that he could transfer [REDACTED] policies to Baltimore Life.
23. On or about May 12, 2003, Respondent completed a Baltimore Life Insurance Company application for [REDACTED]. Respondent completed 11 applications, 10 of which were for family members of [REDACTED].
24. On or about September 6, 2003, Respondent had [REDACTED] give him a check in the amount of \$296.00, payable to Baltimore Life Companies to cover the premiums on the policies while the bank changed [REDACTED] automatic withdrawal to come from her checking account rather than her savings account.
25. Respondent cashed [REDACTED] check on September 8, 2003 at Fairlane Liquor store, and never remitted the payment to Baltimore Life. On March 9, 2004, Baltimore Life refunded [REDACTED] check in the amount of \$296.00.

26. Respondent collected a premium payment from [REDACTED] for the purpose of insurance and failed to remit the payment to Baltimore Life.
27. Respondent's misrepresentations and fraudulent conduct towards [REDACTED] amounts to an unfair or deceptive trade or practice in the business of insurance.
28. On or about February 4, 2003, Respondent completed a Baltimore Life application for life insurance for [REDACTED].
29. On or about April 19, 2004, [REDACTED] gave Respondent personal check # [REDACTED] payable to Respondent in the amount of \$300.00 to reinstate her life insurance policy.
30. On or about May 17, 2004, [REDACTED] completed a Baltimore Life questionnaire alleging that Respondent "stole" her money that she gave to him to reinstate her life insurance policy. On or about May 19, 2004, Baltimore Life refunded [REDACTED] \$300.00 she gave Respondent.
31. Respondent failed to remit [REDACTED] premium to Baltimore Life.
32. On or about December 15, 2004, [REDACTED] notified OFIS that her Aunt, [REDACTED], had been paying premiums to Respondent for a Baltimore Life Insurance policy and had not received the policy.
33. Upon contacting Baltimore Life, [REDACTED] discovered that the money orders given to Respondent on January 2, 2004 for \$110.75; February 2, 2004 for \$110.00; April 5, 2004 for \$110.25; May 4, 2004 for

\$110.12; and May 21, 2004 for \$100.12, had not been remitted to Baltimore Life.

34. On March 3, 2004, [REDACTED] made a check payable to Respondent in the amount of \$110.25 on behalf of [REDACTED], for her life insurance policy. Respondent negotiated the check on March 3, 2004.

35. Respondent failed to remit the premiums paid by [REDACTED] to Baltimore Life.

#### CONCLUSIONS OF LAW

Petitioner, as the complaining party, has the burden of proof in this matter to show by a preponderance of the evidence that Respondent has violated the Insurance Code as set forth in Complaint, such that grounds exist for the imposition of a sanction. A default having been granted for Petitioner against Respondent, the allegations set forth in the Complaint are taken as true and proven. Under Section 72 of the APA, there is no requirement to provide a full evidentiary hearing when all alleged facts are taken as true. *Smith v Lansing School Dist*, 428 Mich 248; 406 NW2d 825 (1987).

Based on the above findings of fact and the default granted against Respondent, the undersigned Administrative Law Judge concludes that Petitioner has met its burden of proof in this matter. Petitioner has proven by a preponderance of the evidence that Respondent has acted in violation of Sections 1207(1), 1239(1)(d)(e) & (h), 2005(a) & (f) and 2018 of the Insurance Code, as follows:

1. As alleged in Count I of the Complaint, Respondent's failure to remit premium payments from [REDACTED], on behalf of three life insurance policies for her children, to Baltimore Life violated Sections 1207 and 1239 of the Insurance Code, specifically MCL 500.1207(1) and MCL 500.1239(1)(d), (e) & (h).
2. As alleged in Count II of the Complaint, Respondent's misrepresentations and fraudulent conduct toward [REDACTED] amounts to an unfair or deceptive trade or practice in the business of insurance, thereby violating Sections 2005 and 2018 of the Insurance Code, specifically MCL 500.2005(a) & (f) and MCL 500.2018.
3. As alleged in Count III of the Complaint, Respondent failed to remit [REDACTED] premium to Baltimore Life in violation of Sections 1207 and 1239 of the Insurance code, specifically MCL 500.1207(1) and MCL 500.1239(1)(d), (e) & (h).
4. As alleged in Count IV of the Complaint, Respondent failed to remit the premiums paid by [REDACTED] to Baltimore Life in violation of Sections 1207 and 1239 of the Insurance Code, specifically MCL 500.1207(1) and MCL 500.1239(1)(d), (e) & (h).

Further, based on Respondent's violations of Sections 1207(1), 1239(1)(d), (e) & (h), 2005(a) & (f) and 2018 of the Insurance Code, Respondent is subject to sanctions under Sections 1239, 1244 and 2038 of the Insurance Code, as alleged.

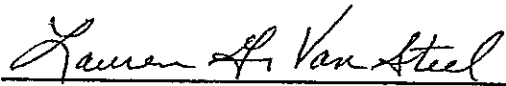
**PROPOSED DECISION**

Based on the above findings of fact and conclusions of law, the undersigned Administrative Law Judge proposes the following to the Commissioner:

1. That the above findings of fact and conclusions of law be adopted in the Commissioner's final decision and order in this matter;
2. That the Commissioner revoke Respondent's insurance producer license;
3. That the Commissioner levy a civil fine against Respondent in an amount to be determined by the Commissioner; and
4. That the Commissioner order any other sanction or sanctions authorized by law that the Commissioner deems appropriate to the established facts and conclusions of law.

**EXCEPTIONS**

Any Exceptions to this Proposal for Decision should be filed in writing with the Office of Financial and Insurance Services, Division of Insurance, Attention: Dawn Kobus, P.O. Box 30220, Lansing, Michigan 48909, within twenty (20) days of issuance of this Proposal for Decision. An opposing party may file a response within ten (10) days after exceptions are filed.

  
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Lauren G. Van Steel  
Administrative Law Judge