

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Department of Insurance and Financial Services

Enforcement Case No. 20-15940

Petitioner,

v

Zelda Mitchell

System ID No. 0773106

Respondent

**Issued and entered
On September 17, 2020
by Randall S. Gregg
Senior Deputy Director**

FINAL DECISION

I. Background

Zelda Mitchell (Respondent) is a licensed public adjuster. The Department of Insurance and Financial Services (DIFS) received information that Respondent failed to supply a residential public adjusting contract on DIFS' current approved form. After investigation and verification of the information, on February 20, 2020, DIFS issued a Notice of Opportunity to Show Compliance (NOSC) informing Respondent that failure to file a contract on DIFS' approved form would result in further compliance action, including revocation of the adjuster license. Respondent failed to reply to the NOSC.

On April 13, 2020, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent at the address she is required to maintain with DIFS. The Order for Hearing required Respondent to take one of the following actions within 21 days: (1) agree to and sign a settlement with DIFS, (2) file a response to the allegations with a statement that Respondent planned to attend the hearing, or (3) request an adjournment. Respondent failed to take any of these actions.

On June 18, 2020, DIFS Staff filed a Motion for Final Decision. Respondent did not file a reply to the motion. Given Respondent's failure to respond, Petitioner's motion is granted. The Administrative Complaint, being unchallenged, is accepted as true. Based upon the Administrative Complaint, the Director makes the following Findings of Fact and Conclusions of Law.

II. Findings of Fact and Conclusions of Law

1. At all relevant times Zelda Mitchell (Respondent) was a licensed resident adjuster for the insured (public adjuster), with qualifications in fire and other hazards. Respondent has been licensed since April 16, 2016.
2. On April 17, 2019, the Director issued Bulletin 2019-07-INS which informed Respondent that the Director had issued a new approved form for the residential public adjusting contract to be used by all licensed public adjusters. The Bulletin gave notice that the new approved form was effective beginning May 15, 2019. Further, the Bulletin required that licensed public adjusters file a contract on the new approved form, in accordance with Section 1226(4) of the Code, MCL 500.1226(4), no later than June 30, 2019.
3. On April 19, 2019, DIFS sent an email to all licensed public adjusters notifying them of Bulletin 2019-07-INS and the requirement to submit a residential public adjusting contract on the new approved form no later than June 30, 2019.
4. Respondent failed to supply a residential public adjusting contract on the new approved form.
5. On September 13, 2019, DIFS sent a second notice to Respondent via email and postal mail, at Respondent's address of record, requiring Respondent to submit a contract on the new approved form no later than October 14, 2019.
6. To this date, Respondent has not filed a residential public adjusting contract on the new approved form.
7. As a licensee, Respondent knew or had reason to know that Section 1228 of the Code, MCL 500.1228, requires that an adjuster for an insured shall maintain records and that those records shall be open to examination by the Director.
8. Respondent violated Section 1228 of the Code by failing to open, to examination, the record of Respondent's residential public adjusting contract on the new approved form, as requested, pursuant to the Director's power under Section 249(a) of the Code, MCL 500.249(a), to examine documents of an adjuster to ascertain compliance with Section 1226(4) of the Code, MCL 1226(4).
9. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order the payment of a civil fine, the refund of any overcharges, that restitution be made to cover losses, damages or other harm attributed to Respondent's violation or violations of the Code, and/or other licensing sanctions, including revocation of licensure.
10. On February 20, 2020, a Notice of Opportunity to Show Compliance was mailed by first class mail to Respondent's address of record at [REDACTED]. No response was received nor was the mail returned.
11. On or about April 13, 2020, DIFS filed an Administrative Complaint, Order of Hearing, and Notice of Hearing, and mailed it to Respondent at the address of record.
12. The Administrative Complaint alleged that Respondent had provided justification for sanction while engaged in the conduct of the business of insurance in Michigan. The Complaint informed

- Respondent that it had 21 days after proof of service to respond to the allegations. Respondent did not respond.
13. Prior to the issuance of the Motion for Final Decision, several further attempts were made to contact Respondent using phone and email information provided by Respondent. The attempts to contact Respondent were unsuccessful.
 14. In paragraph 3 of the Order for Hearing, the Respondent was ordered to do one of the following within 21 days of the date of the Order: 1) agree to and sign a settlement with DIFS; 2) file a response to the allegations in the Administrative Complaint, and file a statement that Respondent plans to attend the hearing as scheduled; or 3) file a request for adjournment. Paragraph 5 stated that failure to make the required filing shall constitute the default of Respondent in this contested case.
 15. Despite DIFS having made reasonable efforts to serve Respondent, Respondent failed to take any actions required by paragraph 3 of the Order.
 16. On June 18, 2020, DIFS Staff filed a Motion for Final Decision. Respondent did not file a reply to the motion. Prior to the issuance of the Motion for Final Decision, several further attempts were made to contact Respondent using phone and email information provided by Respondent. The attempts to contact Respondent were unsuccessful.
 17. Therefore, where Respondent has received notice and was given an opportunity to respond and Respondent has not responded, the Petitioner is entitled to an entry of default and a Final Order finding the allegations in the Administrative Complaint to be true. Petitioner further requests that the Director issue and enter a Final Decision against Respondent, revoking its license and authority to engage in the business of insurance in the State of Michigan.

III. Order

Based upon Respondent's conduct and the applicable law cited above, it is ordered that:

1. Respondent shall cease and desist from violating the Code.
2. Respondent shall immediately cease and desist from engaging in the business of an adjuster for the insured.
3. Pursuant to MCL 500.1228, MCL 500.1239(1)(h), and MCL 500.1244(1)(d), Respondent Zelda Mitchell's adjuster for the insured license (System ID No. 0773106) is **REVOKED**.

Anita G. Fox, Director
For the Director:



Randall S. Gregg, Senior Deputy Director