

**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. 22-16714
Agency No. 22-004-L**

Petitioner,

v

Blake Porush

System ID No. 0871309

Respondent.

**Issued and entered
on June 28, 2022
by Randall S. Gregg
Senior Deputy Director**

INTERIM ORDER

I. Background

Blake Porush (Respondent) is a licensed non-resident insurance producer. On-or-around November 9, 2021, the Department of Insurance and Financial Services (DIFS) requested Respondent respond to a consumer complaint sent to Respondent via email and mail on-or-around November 9, 2021. No response was received. Nor did Respondent respond to either Notice of Opportunity to Show Compliance (NOSC), which were mailed to Respondent at, first, the business address and then, the residential address that Respondent had placed on file with DIFS. Both NOSCs informed Respondent that the failure to respond by the deadline set forth therein constituted a violation of Sections 249, 1239(1)(g) and (2)(e) of the Michigan Insurance Code of 1956 (Code), MCL 500.249, MCL 500.1239(1)(g) and (2)(e), and provided justification for sanctions pursuant to Sections 1239(1) and 1244(1)(a-d) of the Michigan Insurance Code (Code), MCL 500.1239(1) and 500.1244(1)(a-d). Respondent failed to reply to NOSC by the deadline.

On April 6, 2022, DIFS issued an Administrative Complaint for Respondent's failure to respond. The Administrative Complaint explicitly notified Respondent of the right to request a hearing on the alleged Code violations cited in the Administrative Complaint. The deadline for Respondent to exercise this right was May 2, 2022. As of June 20, 2022, no response has been received.

On May 20, 2022, DIFS filed a Motion for Interim Order to which a response was required on-or-before June 2, 2022. Respondent has not filed a response to the motion. Given Respondent's repeated 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, Blake Porush (System ID No. 0871309) (Respondent), was a licensed non-resident insurance producer with qualifications in accident and health, as well as life insurance.
1. On or about October 19, 2021, DIFS staff received a complaint from a consumer expressing concerns that Respondent enrolled her parents and her spouse in a health insurance plan through the Health Insurance Marketplace without their consent. This enrollment reportedly resulted in Five Thousand Dollars (\$5,000.00) in unpaid medical bills because this enrollment rendered her parents' existing insurance policy a secondary or subsequent insurer, and the Marketplace rescinded coverage, apparently without her parents' knowledge.
2. On November 9, 2021, DIFS staff emailed Respondent a letter requesting a response to the complaint by November 30, 2021. The email was sent to [REDACTED] the electronic mailing address that Respondent reported to DIFS pursuant to Section 1238 of the Code, MCL 500.1238. No response was received.
3. On December 2, 2021, DIFS staff both emailed a Notice of Opportunity to Show Compliance (NOSC) to the email address referenced in paragraph 3 above and mailed a copy to the mailing address that Respondent reported to DIFS pursuant to Section 1238(1), MCL 500.1238(1). This mailing address is [REDACTED]. The mailed NOSC was not returned to DIFS; however, no response was received.
4. Section 1238 of the Code requires agents to notify DIFS of any change in their email or mailing address within thirty (30) days after the change. See MCL 500.1238(1). It authorizes DIFS to use this address for service of process. See MCL 500.1238(2).
5. On December 13, 2021, DIFS staff attempted contact with Respondent via telephone by calling both telephone numbers on file. The voicemail box for the first telephone number was full, such that DIFS staff was not able to leave a message; and the second telephone number is connected to a business entity at which Respondent was no longer employed.
6. On December 15, 2021, DIFS staff mailed a second NOSC to Respondent at the address he reported with DIFS as being related to his residence, i.e., [REDACTED]. The correspondence was not returned as undeliverable; however, no response was received.
7. On April 6, 2022, an Administrative Complaint was served on Respondent by mail. A copy was sent to both mailing addresses that Respondent placed on file at DIFS, i.e., as set forth in paragraphs 3 and 6 above.
8. The Administrative Complaint notified Respondent that the failure to respond to both NOSCs and DIFS' initial investigation constituted violations of several Code provisions, including Sections 249, 1239(1)(g), and 1239(2)(e), MCL 500.249, MCL 500.1239(1)(g), and MCL 500.1239(2)(e).

9. The Administrative Complaint also notified Respondent of his right to request a hearing on the allegation in the Administrative Complaint on-or-before May 2, 2022. Specifically, it states as follows:

OPPORTUNITY FOR HEARING

You are entitled to an opportunity for a hearing before the imposition of appropriate fines, restitution, or other available penalties.

IF YOU, AS THE RESPONDENT, WISH TO REQUEST AN ADMINISTRATIVE HEARING AS DESCRIBED ABOVE, YOU MUST DO SO BY FILING A REQUEST FOR HEARING WITHIN TWENTY-ONE DAYS OF THE DATE OF THIS NOTICE. FAILURE TO REQUEST SUCH A HEARING MAY RESULT IN THE FACTS ASSERTED IN THIS COMPLAINT BEING ACCEPTED AS TRUE BY THE DIRECTOR AND THE IMMEDIATE ISSUANCE OF A FINAL DECISION IMPOSING SANCTIONS AGAINST YOU WITHOUT FURTHER OPPORTUNITY TO BE HEARD.

....

In lieu of a request for a hearing, Respondent must within 21 days of the date on this Notice send a response to the factual allegations in the consumer complaint.

ALL REQUESTS FOR HEARING OR THE RESPONSE TO THE CONSUMER COMPLAINT MUST BE RECEIVED BY DIFS NO LATER THAN: MONDAY, MAY 2, 2022

10. To date, DIFS staff has not received a response to the November 9, 2021 letter, any telephone call, to either NOSC. Nor did he request a hearing, despite the language in the Administrative Complaint, which is excerpted in paragraph 9 above, notifying him of his right to do this.
11. On May 23, 2022, a Motion for Interim Order was served on Respondent by mail. A copy was sent to both mailing addresses that Respondent placed on file at DIFS, i.e., as set forth in paragraphs 3 and 6 above. The correspondence was not returned as undeliverable; however, no response was received.
12. As a licensee, Respondent knew or should have known that Section 249 of the Code, MCL 500.249, requires that licensees respond to inquiries from DIFS staff. By failing to respond to DIFS' inquiries, Respondent has violated Section 249 of the Code, MCL 500.249.
13. As a licensee, Respondent knew or should have known that Section 1239(1)(g) of the Code, MCL 500.1239(1)(g), provides that he may be sanctioned for using dishonest practices or demonstrating incompetence, or untrustworthiness, in the conduct of business in this state or elsewhere. Respondent demonstrated incompetence in the conduct of business by failing to respond to DIFS' letter and two NOSC's despite plain language in Section 249 of the Code requiring this. Such conduct warrants sanctions, pursuant to Section 1239(1)(g) of the Code.

14. As a licensee, Respondent knew or should have known that Section 1239(2)(e) of the Code, MCL 500.1239(2)(e), provides, that he may be sanctioned for violating any insurance laws. As set forth above, Respondent has violated Section 249 of the Code and, thus, provided justifications for sanctions, pursuant to Section 1239(2)(e) of the Code.
15. As a licensee, Respondent knew or should have known that Section 1242(2) of the Code, MCL 500.1242(2), provides that the Director may suspend Respondent's license for violation of any provision of the Code. As stated above, Respondent has violated several sections of the Code, including Section 249, and, thus, has provided justification for the suspension of his non-resident insurance producer license.
16. As a licensee, Respondent knew or should have known that Section 1244(1) of the Code, MCL 500.1244(1), provides that the Director may enter a cease-and-desist order to address conduct that violates Chapter 12 of the Code, including Section 1239(1)(g) and (2)(e), MCL 500.1239(1)(g) and MCL 500.1239(2)(e), described above.
17. Despite DIFS staff having made reasonable efforts to serve Respondent and having complied with MCL 500.1238(2), Respondent has failed to appear and defend.
18. Therefore, where Respondent has received notice and was given an opportunity to request a hearing on this enforcement case and Respondent has not responded nor appeared to defend, Petitioner is entitled to an entry of default and an interim order suspending Respondent's non-resident insurance producer license until he both responds to DIFS' inquiry following the consumer complaint and pay a civil fine in the amount of One Thousand Dollars (\$1,000.00) due to his failure to respond to DIFS' multiple inquiries.
19. DIFS staff has made reasonable efforts to serve Respondent and have complied with MCL 500.1238(2).
20. Respondent has received notice and has been given an opportunity to respond and appear and has not responded nor appeared.
21. Respondent is in default and the Petitioner is entitled to have all allegations accepted as true.

III. Order

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

1. Respondent shall **CEASE** and **DESIST** from violating Section 249 of the Code, MCL 500.249.
2. Respondent Blake Porush's non-resident insurance producer license (System ID No. 0871309) is **SUPENDED** commencing the day immediately following issuance of this Order. Respondent's license shall only be reinstated if he provides a satisfactory response to the consumer complaint detailed in paragraphs 2 and 3 above, updates his contact information as appropriate under Section 1238 of the Code, MCL 500.1238, and satisfies the requirement set forth in paragraphs 3 and 4 below.

3. Respondent shall pay civil and administrative fines in the amount of \$1,000.00 by the date identified on the DIFS invoice.
4. Respondent shall provide a complete response to the request for additional information originally sent on November 9, 2021, within twenty-one (21) days of the date of this Interim Order to Staff Attorney, Elizabeth R. Husa.

Anita G. Fox, Director

For the Director:



Randall S. Gregg, Senior Deputy Director