

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

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Before the Director of the Department of Insurance and Financial Services

In the matter of:

BRENT ARTHUR STANTON
System ID No. 601879

ENFORCEMENT CASE NO. 13-11728

Respondent.

_____ /

Issued and entered
on April 11, 2013
By Annette E. Flood
Chief Deputy Director

**ORDER OF SUMMARY SUSPENSION, NOTICE OF OPPORTUNITY FOR HEARING,
AND NOTICE OF INTENT TO REVOKE**

Pursuant to the Section 1242 of the Michigan Insurance Code (Code), MCL 500.1242, and Section 92 of the Michigan Administrative Procedures Act (APA), MCL 24.292, and based upon the attached FINDINGS, including that public health, safety and welfare requires emergency action,

IT IS THEREFORE ORDERED that:

1. The insurance resident producer license and authority of Respondent are **SUMMARILY SUSPENDED**.
2. A copy of this Order shall be immediately served upon Respondent. This order shall be effective upon the date of service.
3. If requested by Respondent, a hearing on this matter shall be held within a reasonable time, but not later than 20 calendar days after service of this Order, unless Respondent requests a later date. The hearing shall address the following issues:
 - a. Whether the suspension should be continued or withdrawn.
 - b. Whether Respondent's license should be revoked.
4. If a hearing is requested, an administrative law judge from the Michigan Administrative Hearing System shall preside over any such hearing.

5. The Director retains jurisdiction of the matters contained within and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate.


Annette E. Flood
Chief Deputy Director

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Pursuant to Executive Order 2013-1 the Director has assumed the statutory authority and responsibility, granted to the Commissioner by the Insurance Code of 1956, MCL 500.100 *et seq.*, to exercise general supervision and control over persons transacting the business of insurance in Michigan.
2. At all relevant times, Respondent Brent Arthur Stanton (Respondent) was a licensed resident producer with qualifications in property and casualty, and was authorized to transact the business of insurance in Michigan.
3. Based upon the information as set forth below, protection of the public health, safety, and/or welfare requires emergency action.
4. On October 24, 2012, DIFS received a complaint from Respondent's previous employer, alleging that Respondent was stealing insureds' cash premium payments and replacing the cash with checks, drawn on a cancelled checking account belonging to Respondent.
5. To date, DIFS Staff have sent letters by both certified and uncertified mail to 3 addresses associated with Respondent. No response to any mailing has been received.
6. DIFS Staff also attempted to contact Respondent via e-mail on December 20, 2012.
7. On January 4, 2013, Respondent replied to DIFS Staff via e-mail and requested additional time to respond to the complaint allegations. Respondent was given until January 28, 2013, to respond. To date, Respondent has not provided any further response.
8. Section 249 of the Code, MCL 500.249, empowers the Director to examine the accounts, records, documents, and transactions pertaining to any insurance agent.
9. By failing to respond to the inquiry of DIFS staff, Respondent has violated Section 249 of the Code.
10. Investigation by DIFS Staff indicates that on September 19, 2012, Respondent collected a \$135 cash payment from a consumer, Insured L., a policyholder with Allstate Insurance.
11. Respondent failed to remit Insured L.'s cash payment to his employer's agency account.

12. Instead, a personal check in the amount of \$135, drawn on an account belonging to Respondent, was deposited into the employer's agency account.
13. The \$135 personal check was returned on September 25, 2012, due to the closure of Respondent's account.
14. Investigation by DIFS Staff also indicates that on September 28, 2012, Respondent collected a \$190 cash payment from Insured E., a policyholder with Allstate. Respondent also collected a \$96 cash payment from Insured H., a policyholder with Allstate.
15. Respondent failed to remit the total cash received from both Insured E. and Insured H., \$286, to his employer's agency account.
16. Instead, a personal check in the amount of \$286, drawn on an account belonging to Respondent, was deposited into the employer's agency account.
17. The \$286 personal check was returned on September 28, 2012, due to the closure of Respondent's account.
18. Section 1207(1) of the Code states that "[a]n agent shall be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by 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).
19. The aforementioned cash payments received by Respondent were received in his capacity as an agent, and were owed to the insurer through his employer's agency account. Respondent's failure to remit such payments in a timely manner is thus *prima facie* evidence of violations of his fiduciary responsibility under Section 1207(1).
20. Section 1239(1)(d) of the Code provides that the Director may discipline a producer for "[i]mproperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business." MCL 500.1239(1)(d).
21. The aforementioned cash payments received by Respondent were received in the course of doing insurance business and by failing to remit said payments, Respondent improperly withheld, misappropriated, or converted such money, thus giving cause for discipline under Section 1239(1)(d) of the Code.
22. Section 1239(1)(h) of the Code provides that the Director may discipline a producer for "[u]sing fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business." MCL 500.1239(1)(h).
23. Respondent's depositing of personal checks drawn on a closed account is either a fraudulent or dishonest practice, or alternatively demonstrates incompetence, untrustworthiness, and financial irresponsibility in the conduct of business, thus providing justification for discipline under Section 1239(1)(h).

24. Respondent's actions demonstrate a pattern of behavior constituting a serious threat to the public.
25. The alleged conduct of Respondent indicates that a summary suspension of licensure is appropriate and necessary in order to protect the public from further financial damage and other harm and to protect the public interest.
26. The alleged conduct of Respondent indicates that Respondent does not possess the requisite character and fitness to be engaged in the business of insurance, and further indicates that Respondent does not command the confidence of the public nor warrant the belief that Respondent will comply with the law.
27. Due process requirements of the Code and the Administrative Procedures Act require that the Respondent, subject to summary disciplinary action, be provided with an opportunity for a prompt hearing on the order for summary suspension. A summary suspension of Respondent's license is authorized by Section 92 of the Michigan Administrative Procedures Act of 1969, as amended, MCL 24.292, and Section 1242(4) of the Code, MCL 500.1242(4).