

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

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Ira Lee Benson
System ID No. 0854122

Enforcement Case No. 18-15138

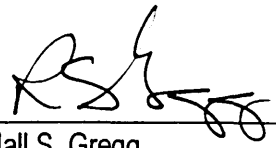
Respondent.
_____ /

Issued and entered
on May 23rd, 2019
by Randall S. Gregg
Special Deputy Director

FINAL ORDER TO CEASE AND DESIST

1. On December 21, 2018, the Chief Deputy Director issued an Order to Cease and Desist (Order) pursuant to Section 251 of the Michigan Insurance Code (Code), MCL 500.251, against Respondent. The copy of the Order is attached to this Final Order to Cease and Desist.
2. The Order contained allegations that Respondent violated MCL 500.1201a(1), MCL 500.1208a(1), and MCL 500.4503(g)(i) of the Code by selling automobile no-fault insurance without being licensed as an insurance producer.
3. On December 26, 2018, the Order was mailed to Respondent via first class and certified mail to the last known address of record. Both envelopes were returned as undeliverable.
4. The Order advised the Respondent of the opportunity to request a hearing on the Order, as provided in Section 251 of the Code, MCL 500.251, not later than 30 days after the Order was delivered or mailed to the Respondent.
5. Respondent failed to timely request a hearing, therefore the Order is **FINAL and, as ordered:**
 1. The Respondent shall immediately CEASE AND DESIST from all activities in violation of the Code as described in the Statement of Findings.
 2. A copy of this Order shall be immediately served upon Respondent and published on the DIFS website. As to any Respondent, this Order shall be effective upon the date of service and/or publication.

3. The Director retains jurisdiction of the matters contained herein and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate.
4. Pursuant to Section 251(6) of the Code, MCL 500.251(6), a person who violates or otherwise fails to comply with an Order to Cease and Desist is subject to one or more of the following:
 - a. Payment of a civil fine of not more than \$1,000 for each violation not to exceed an aggregate civil fine of \$30,000. However, if the person knew or reasonably should have known the conduct was in violation of the cease and desist order, the person shall be subject to a civil fine of not more than \$25,000 for each violation not to exceed an aggregate civil fine of \$250,000.
 - b. Suspension or revocation of the person's license or certificate of authority.

By  _____
Randall S. Gregg
Special Deputy Director
Department of Insurance and Financial Services

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Ira Lee Benson

Enforcement Case No. 18-15138

Respondent.

_____ /

Issued and entered
on Dec. 21, 2018
by Teri L. Morante
Chief Deputy Director

**ORDER TO CEASE AND DESIST WITH STATEMENT OF FINDINGS
AND NOTICE OF OPPORTUNITY FOR HEARING**

Pursuant to Section 251 of the Michigan Insurance Code (Code), MCL 500.251, and after reviewing evidence of the conduct described in the attached Statement of Findings, and

WHEREAS, the Director of the Department of Insurance and Financial Services finds that immediate action is necessary and appropriate in the public interest for the protection of the public health, safety, and welfare, and consistent with the purposes fairly intended by public policy and provisions of the Code,

IT IS THEREFORE ORDERED THAT:

1. The Respondent shall immediately **CEASE AND DESIST** from all activities in violation of the Code as described in the Statement of Findings.
2. A copy of this Order shall be immediately served upon Respondent. As to any Respondent, this Order shall be effective upon the date of service.
3. Respondent will have 30 calendar days after the service of this Order to contest it by requesting a hearing. Within 10 calendar days after receiving the request, the hearing process shall commence. This Order shall remain in effect until further order of the Director. Any request for a hearing should be addressed to the Department of Insurance and Financial Services, Attention: Valerie Donally, Hearings Coordinator, P.O. Box 30220, Lansing, MI 48909-7720 or faxed to 517-284-8843.
4. Any such hearing held shall address the following issues:
 - a. The facts set forth in the Statement of Findings.

- b. The continuation of the Order to Cease and Desist.
 - c. Restitution to be paid by the Respondent.
5. If a hearing is requested, an administrative law judge from the Michigan Administrative Hearing System shall preside over any such hearing.
6. The Director retains jurisdiction of the matters contained herein and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate.
7. Pursuant to Section 251(6) of the Code, MCL 500.251(6), a person who violates or otherwise fails to comply with an Order to Cease and Desist is subject to one or more of the following:
- a. Payment of a civil fine of not more than \$1,000 for each violation not to exceed an aggregate civil fine of \$30,000. However, if the person knew or reasonably should have known the conduct was in violation of the cease and desist order, the person shall be subject to a civil fine of not more than \$25,000 for each violation not to exceed an aggregate civil fine of \$250,000.
 - b. Suspension or revocation of the person's license or certificate of authority.
 - c. Complete restitution, in the form, amount, and within the period determined by the Director, to all persons in Michigan damaged by the violation or failure to comply.

Dated: Dec. 21, 2018



Teri L. Morante
Chief Deputy Director

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STATEMENT OF FINDINGS

1. Pursuant to Section 251(1) of the Code, MCL 500.251(1), the Director is empowered to issue a cease and desist order if the Director finds any of the following:
 - (a) A person is conducting transactions of insurance for which a certificate of authority is required by this act without having obtained a certificate of authority.
 - (b) A person is acting as an insurance agent, solicitor, adjuster, or counselor without a license as required by this act.
 - (c) A person is engaged in an act or practice in the business of insurance for which authority from or notification to the commissioner is required by this act and the person has not received authority or given notification.
 - (d) A person authorized to engage in the business of insurance under this act is engaged in conduct that presents an immediate danger to public health, safety, or welfare. MCL 500.251(1).

2. Under Section 1201a(1) of the Code, MCL 500.1201a(1) it is a violation for a person to sell, solicit, or negotiate insurance in this state for any line of insurance without first obtaining a license or qualification for that line.
 - a. "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers. MCL 500.1201(k).
 - b. "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company. MCL 500.1201(l).

c. "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company. MCL 500.1201(m).

3. Under Section 1208a(1) of the Code, MCL 500.1208a(1), an insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer.
4. Under Section 4503(g)(i) of the Code, MCL 500.4503(g)(i), a fraudulent insurance act includes but is not limited to, acts or omissions committed by any person who knowingly, and with an intent to injure, defraud, or deceive:

* * *

(g) Diverts, attempts to divert, or conspires to divert funds of an insurer or of other persons in connection with any of the following:

(i) The transaction of insurance or reinsurance.

* * *

5. DIFS Staff received information about possible unlicensed activity by the Respondent. A review of DIFS' records revealed that Respondent is not licensed under the Code.
6. After an investigation, DIFS' Staff concluded that Respondent has engaged in activities regulated by the Code, without the requisite license, and has violated the insurance laws of this state.
7. DIFS Staff found that Respondent sold, solicited, or negotiated insurance without a license and diverted funds intended for the purchase of insurance.
8. Specifically, DIFS Staff found that on March 24, 2015, Respondent sold a prepaid funeral agreement and life insurance policy through National Guardian Life Insurance Company (NGL) to Ola Yapp-Barber for her aunt, insured Bernice Jackson.
9. At no relevant time was Respondent licensed in Michigan as an insurance producer.
10. Ms. Yapp-Barber paid Respondent \$5,406.00 in cash for the policy on March 24, 2015.
11. Respondent does not have an appointment with NGL.
12. By acting as an agent of NGL without an appointment, Respondent violated Section 1208a(1).
13. By selling, soliciting, or negotiating insurance without a license, Respondent violated Section 1201a(1) of the Code.
14. In February of 2018, Ms. Yapp-Barber learned that the money she paid for the policy was never remitted to NGL, and that NGL had no active policy for her aunt.

15. On March 16, 2018, NGL confirmed to DIFS Staff that it had no policy for either Ms. Yapp-Barber or her aunt.
16. By knowingly, and with an intent to injure, defraud or deceive, diverting funds of an insurer in connection with the transaction of insurance, Respondent violated Section 4503(g)(i) of the Code.
17. Through the above alleged acts, Respondent also misappropriated and diverted funds intended for the purpose of insurance.
18. Based on the aforementioned findings, Respondent is acting as an insurance producer, solicitor, adjuster, or counselor without a license as required by the Code.