

**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. 14-11987

Agency Case No. 14-055-L

Petitioner,

v

Carlton D. Davis

System ID No. 0013068

Respondent.

_____/

Issued and enter
this 29th day of April 2015
by Randall S. Gregg
Special Deputy Director

FINAL DECISION

I. BACKGROUND

Respondent Carlton D. Davis (Respondent) is a licensed insurance producer. In December 2012 the Department of Insurance and Financial Services (DIFS) received a notice of cancellation from the American Family Life Assurance Company of Columbus (AFLAC) alleging that Respondent submitted invalid and fraudulent business to AFLAC in order to receive advanced commissions from AFLAC. DIFS investigated the allegations and on September 16, 2014, DIFS issued a Notice of Opportunity to Show Compliance (NOSC) to Respondent at his last known address alleging that Respondent had violated Sections 249(a) and 1238(1) of the Michigan Insurance Code (Code), MCL 500.249(a) and MCL 500.1238(1), and had provided justification for revocation of licensure pursuant to Section 1239(1)(b), (f) and (h), MCL 500.1239(1)(b), (f) and (h) of the Code.

On January 14, 2015, DIFS issued an Administrative Complaint and Order for Hearing to Respondent at his last known address. The Order for Hearing required Respondent to take one of the following actions within 21 days: agree to a resolution of the case, file a response to the allegations with a statement that Respondent planned to attend the hearing, or request an adjournment. Respondent failed to take any of these actions.

On March 19, 2015, 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. Pursuant to Executive Order 2013-1, all authority, powers, duties, functions, and responsibilities of the Commissioner of the Office of Financial and Insurance Regulation (Commissioner) have been transferred to the Director.
2. At all relevant times, Respondent was a licensed resident insurance producer in the state of Michigan with qualifications in life, accident and health and variable annuities.
3. On or about December 18, 2012, DIFS received a termination for cause notice from AFLAC stating AFLAC was cancelling Respondent's appointment due to an investigation that revealed Respondent had submitted invalid and fraudulent business to AFLAC in order to receive advanced commissions and had refused to cooperate with the investigation.
4. Respondent's license became inactive on November 1, 2013, for failure to complete continuing education requirements.
5. DIFS Staff later received a CD from AFLAC containing its Report of Investigation. The CD contained copies of all of the AFLAC applications Respondent wrote between June 14, 2011, and May 31, 2012, the audio recording of an interview conducted by AFLAC with Respondent, and spreadsheets showing the fictitious policies submitted to AFLAC by Respondent.
6. The Report of Investigation explained the number of policies submitted by Respondent, the fictitious group names Respondent used to submit business, and the amount of loss AFLAC sustained from Respondent's conduct.
7. DIFS Staff attempted to contact each of the insureds listed on applications submitted by Respondent. DIFS Staff was unable to contact the listed insureds as the phone numbers listed on the applications were no longer in service or belonged to a different individual or entity than identified those on the AFLAC applications.
8. On or about January 10, 2014, DIFS Staff received an email from the FBI stating that Respondent, "plead guilty to one count of Conspiracy to Commit Federal Crimes (18 U.S.C. §371) and is awaiting sentencing." This charge stems from Respondent's involvement in a scheme with another licensee, A. G. [REDACTED], and others to defraud and obtain money in the form of proceeds of mortgage loans by means of material false and fraudulent pretenses, representations, and promises. Specifically, Respondent and Mr. G. [REDACTED] recruited straw buyers and originated mortgage loans utilizing false information.

Mr. G [REDACTED] owned Detroit National Mortgage Associates and recruited the straw buyers as well as funded the purchases. Respondent was the loan officer for the loans obtained and worked for several different mortgage companies and financial institutions during the duration of the scheme.

9. DIFS's licensing database lists Respondent's current mailing address as: [REDACTED]
[REDACTED].
10. DIFS Staff identified: [REDACTED]
[REDACTED]; and, [REDACTED] as
additional addresses associated with Respondent.
11. Between December 13, 2013, and January 17, 2014, DIFS Staff attempted to contact Respondent through letters sent to each of the addresses listed above. DIFS Staff requested that Respondent respond by January 31, 2014.
12. DIFS received back the letter sent to [REDACTED] for
the following reason: "NOT DELIVERABLE AS ADDRESSED UNABLE TO
FORWARD."
13. DIFS received back each of the letters sent to: [REDACTED];
[REDACTED]; and [REDACTED],
[REDACTED] for the following reasons: "NOT DELIVERABLE AS
ADDRESSED/UNABLE TO FORWARD," "NOT DELIVERABLE AS
ADDRESSED/UNABLE TO FORWARD," and "UNCLAIMED," respectively.
14. As a licensee, Respondent knew or had reason to know that Section 249(a) of the Code provides that "For the purposes of ascertaining compliance with the provisions of the insurance laws of the state or of ascertaining the business condition and practices of an insurer or proposed insurer, the commissioner, as often as he deems advisable, may initiate proceedings to examine the accounts, records, documents and transactions pertaining to: (a) Any insurance agent, surplus line agent, general agent, adjuster, public adjuster or counselor."
15. DIFS Staff has been unable to contact Respondent to discuss the allegations made in the November 13, 2012, complaint and Respondent failed to respond to several letters sent by DIFS Staff.
16. As a licensee, Respondent further knew or had reason to know that Section 1238(1) of the Code provides that "When applying for a license to act as an agent, solicitor, counselor, or adjuster, the applicant shall report his or her mailing and electronic mail address to the commissioner. An agent, solicitor, counselor, or adjuster shall notify the commissioner of any change in his or her mailing or electronic mail address within 30 days after the change. The commissioner shall maintain the mailing and electronic mail address of each agent, solicitor, counselor, or adjuster on file."

17. Respondent failed to notify the Director of any changes to his mailing address within 30 days after the change.
18. As a licensee, Respondent further knew or had reason to know that Section 1239(1)(b) of the Code allows the Director to place on probation, suspend, revoke, or levy a civil fine under Section 1244 or any combination thereof, for "Violating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner."
19. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(b) of the Code, by failing to respond to DIFS's letters pursuant to Section 249(a) of the Code, and/or by failing to update his address pursuant 1238(1) of the Code.
20. As a licensee, Respondent further knew or had reason to know that Section 1239(1)(f) of the Code allows the Commissioner to place on probation, suspend, or revoke an insurance producer's license or levy a civil fine under Section 1244 of the Code for: "Having been convicted of felony."
21. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(f) of the Code, by being convicted on one count of Conspiracy to Commit Federal Crimes by conspiring with A. Greer to submit fraudulent mortgage loan applications to various financial institutions on behalf of straw buyers and obtain proceeds from the fraudulent mortgage loans.
22. As a licensee, Respondent further knew or had reason to know that Section 1239(1)(h) of the Code allows the Director to place on probation, suspend, or revoke an insurance producer's license or levy a civil fine under Section 1244 of the Code for: "Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere."
23. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(h) of the Code, by using fraudulent, dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business by submitting invalid and fraudulent applications to AFLAC and receiving advanced commissions on those applications.
24. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order the payment of a civil fine, and/or other licensing sanctions, including revocation of licensure.
25. On September 16, 2014, a NOSC was mailed by first class mail to Respondent at his official address of record as he reported to it to DIFS and, after the NOSC was returned by the United State Postal Service, DIFS Staff located an alternate address for Respondent and re-mailed the NOSC to: [REDACTED]

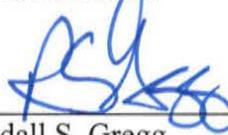
26. Respondent failed to respond and/or show compliance.
27. On January 14, 2015, DIFS served Respondent by first class mail with an Order for Hearing, Administrative Complaint, Statement of Factual Allegations, and Notice of Hearing which was returned by the United States Postal Service.
28. DIFS Staff made additional efforts to ascertain an alternate address for Respondent. The search confirmed that the address used is his current address.
29. On March 19, 2015, a Motion for Final Decision by Default was mailed by first class mail to the same address listed above.
30. Respondent failed to respond to the Motion.
31. Despite DIFS Staff having made reasonable efforts to serve Respondent and having complied with Section 1238(1) of the Code, Respondent has failed to appear and defend.
32. Therefore, where Respondent has received notice and was given an opportunity to have a hearing on this contested case and Respondent has not responded nor appeared to defend, the Petitioner is entitled to an entry of default and a Final Decision revoking Respondent's insurance producer license.

III. ORDER

Based on the 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 insurance.
3. Respondent has provided justification for sanctions pursuant to Sections 249(a) and 1239(1)(b), (f), and (h) of the Code. Pursuant to Section 1244(1)(d) of the Code, Respondent's resident insurance producer license is **REVOKED**.

Annette E. Flood, Director
For the Director:



Randall S. Gregg
Special Deputy Director