

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

David Selwood
System ID No. 0021502

Enforcement Case No. 17-15072

International Risk Placement, Inc.

Respondents.
_____ /

Issued and entered
on January 29, 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 Respondents 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 Respondents. As to any Respondent, this Order shall be effective upon the date of service.
3. Respondents 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: Christy Capelin, 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(s).
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.



Teri L. Morante
Chief Deputy Director

Dated: Jan 29, 2018

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STATEMENT OF FINDINGS

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 have been transferred to the Director of the Department of Insurance and Financial Services (DIFS).
2. 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).
3. Under Section 1905 of the Code, it is a violation for a person to solicit insurance, bind coverage, or act as an agent or broker in the transaction of surplus lines insurance without a license. MCL 500.1905:
 - (1) A person shall not solicit insurance, bind coverage, or in any other manner act as an agent or broker in the transaction of surplus lines insurance unless licensed under this chapter and section 1206a.

(2) A person shall not offer, solicit, make a quotation on, sell, or issue a policy of insurance, binder, or any other evidence of insurance with an unauthorized insurer except in compliance with this chapter.

4. DIFS Staff received information about possible unlicensed activity by David Selwood, System ID No. 0021502, (Selwood) and International Risk Placement, Inc. (Agency). At all pertinent times, Selwood is and has been President of the Agency. A review of DIFS' records revealed that Respondents are not currently licensed under the Code.
5. After an investigation, DIFS' staff concluded that Respondents have engaged in activities regulated by the Code, without the requisite license, and have violated the insurance laws of this state.
6. DIFS Staff found that Respondents have acted as a broker in the transaction of surplus lines insurance without a license, and charged fees in excess of the amount allowed by law for the placement of surplus lines coverage.
7. Specifically, DIFS Staff found that Selwood was a licensed non-resident producer between March 1, 1989 and April 30, 2000, with qualifications in multiple lines property & casualty. However, his license was inactivated effective May 1, 2000. The Agency has no past or current insurance license in the State of Michigan.
8. At all pertinent times, National Transportation Associates, Inc. (NTA), System ID No. 0069411, was an actively licensed resident insurance agency in the State of Michigan, with qualifications in property and casualty. NTA's main clientele involves commercial freight and trucking businesses.
9. At all pertinent times, Clifton Truck Insurance Agency, LLC (Clifton), System ID No. 0069930, was an actively licensed resident insurance agency in the State of Michigan, with qualifications in property and casualty.
10. Respondents placed insurance coverage in the surplus lines market for NTA and Clifton clients in the State of Michigan.
11. At all pertinent times, Respondents were not licensed to transact surplus lines business in Michigan. No one at the Agency had a license to engage in surplus lines transactions in the State of Michigan.
12. In a telephone conversation with DIFS staff on October 12, 2017, Selwood stated that the Agency acted as a wholesale broker between Lloyd's of London and retail agencies in the State of Michigan. Selwood admitted that the Agency was responsible for directly placing the coverage for these Michigan clients in the surplus lines market.
13. In his discussion with DIFS staff, Selwood contended that—because he and the Agency did not work directly with the Michigan clients and were not the parties to file surplus lines taxes with DIFS—they were not required to be licensed.
14. Section 1905 of the Code, MCL 500.1905, provides:

(1) A person shall not solicit insurance, bind coverage, or in any other manner act as an agent or broker in the transaction of surplus lines insurance unless licensed under this chapter and section 1206a.

(2) A person shall not offer, solicit, make a quotation on, sell, or issue a policy of insurance, binder, or any other evidence of insurance with an unauthorized insurer except in compliance with this chapter.

15. By soliciting insurance, binding coverage, and otherwise acting as an agent or broker in the transaction of surplus lines insurance without a license, Respondents violated Section 1905 of the Code, MCL 500.1905.

16. Based on these findings, Respondents are acting as an insurance producer, solicitor, adjuster, or counselor without a license as required by the Code.

17. Further, Respondents charged clients through NTA and Clifton a \$200 fee on each surplus lines policy sold. Between December 2014 and March 2017, Respondents collected approximately \$23,600 in such fees.

18. As a non-broker state, Michigan does not allow an insurance producer to charge or pass on a service fee to consumers. A narrow exception under Section 1915 of the Code, MCL 500.1915, applies to surplus lines producers who are allowed to charge a fee in excess of a \$50 statutory cap if the fee is filed with the Director and not disapproved by the Director within 30 days:

(1) A licensee may not charge, in addition to the premium charged by an unauthorized insurer, a fee to cover the costs incurred in the placement of the indemnity which exceeds \$50.00, unless all of the following conditions are met:

(a) The fee in excess of \$50.00 is filed with the commissioner and not disapproved by the commissioner within 30 days of the date it is filed with the commissioner.

(b) The fee exceeds \$50.00 only to the extent that the actual additional costs incurred for services performed by persons or entities unrelated to the licensee exceed that amount.

19. To apply for this exception, agencies must be licensed for surplus lines in the State of Michigan.

20. By charging a fee in excess of \$50.00 for surplus lines coverage in the State of Michigan, Respondents violated Section 1915 of the Code, MCL 500.1915 and R 500.1251.

21. Based on these findings, Respondents are engaged in an act or practice in the business of insurance for which authority from or notification to the Director is required by the Code, and the Respondents have not received authority or given notification.