

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. 17-14899
Agency No. 18-103-L

Petitioner,

v

Michael Haggerty
System ID No. 0165080

Respondent.
_____ /

Issued and Entered
on March 18, 2019
by Randall S. Gregg
Deputy Director

FINAL DECISION

I. Background

Michael Haggerty (Respondent) is a licensed resident insurance producer. The Department of Insurance and Financial Services (DIFS) received information that Respondent failed to timely remit insurance premiums, failed to keep or maintain reasonable records of funds received in his fiduciary capacity, and demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state. After investigation and verification of the information, on August 8, 2018 DIFS issued a Notice of Opportunity to Show Compliance (NOSC) alleging that Respondent had provided justification for revocation of licensure and other 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 the NOSC.

On November 7, 2018, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent at the address s/he is required to maintain with DIFS. The Order for Hearing required Respondent to take one of the following actions within 21 days: (1) agree to a resolution of the case, (2) file a response to the allegations with a statement that Respondent planned to attend the hearing, or (3) request an adjournment. Respondent failed to respond or take any action.

On January 24, 2019, 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. At all relevant times, Michael Haggerty (Respondent) was a licensed resident insurance producer, with qualifications in casualty, property, variable annuities, accident and health, and life. Respondent has been licensed since April 4, 1997. Respondent also held a qualification in multiple lines P&C, but that qualification has been inactive since February 28, 2002.
2. Respondent was the Secretary/Treasurer for Sanilac Mutual Insurance Company (SMIC).
3. SMIC provided insureds with fire, wind, and multiple perils coverage, but used Auto-Owners Insurance Company (Auto-Owners) to provide liability insurance to its insureds.
4. On or about November 1, 2015, Farmers Mutual Insurance Company of Michigan (FMIC) purchased SMIC.
5. On or about April 4, 2016, DIFS received information that Respondent had been collecting premiums that should have been applied towards policies underwritten by Auto-Owners.
6. On April 7, 2016, DIFS investigators obtained from Auto-Owners a list of insureds from SMIC along with their owed premiums.
7. On November 30, 2016, DIFS investigators received bank records from Exchange State Bank (ESB) that were associated with Respondent and SMIC between June 1, 2015 and November 1, 2016. The ESB records showed:
 - a. Respondent was a signor of account [REDACTED] for which SMIC was identified as the "account owner."
 - b. SMIC collected funds from BS, MB, DT, NJA, and LVC.
8. Of the five insureds above, DIFS investigators collected statements from LVC, MB, and NJA. MB was sure that his farm liability insurance was underwritten by Auto-Owners.
9. On March 8, 2017, DIFS investigators met with Respondent and he made the following admissions:
 - a. While the coverages SMIC provided were separate from that provided by Auto-Owners, insureds would provide him or the SMIC representative with one payment to cover the premiums for all policies.
 - b. Respondent had a report showing 411 insureds who had coverage with SMIC, and most of the insureds also had liability insurance with Auto-Owners.
 - c. As Treasurer for SMIC, Respondent would collect premiums from insureds, establish billing cycles, and balance accounts.
 - d. Respondent required insureds to pay the premium owed towards their Auto-Owners policy at the same time they paid their renewal with SMIC. As a result, and because their SMIC

renewed in the summer, insureds would remit their Auto-Owners premiums months before it was due.

- e. Respondent used two methods to record the premium collected from insureds, the Sanilac System and QuickBooks.
 - i. The Sanilac System identified insureds of SMIC, their policy number, owed premium, and effective/renewal dates. An "A" in the Sanilac System denoted that the insured was on an annual billing cycle established by Auto-Owners.
 - f. While SMIC systems would log the premium taken in from insureds, it would only log a net amount of premium remitted to Auto-Owners.
 - g. As a result, Respondent was unable to trace whether premiums for a particular insured were remitted to Auto-Owners.
 - h. In November of 2015, SMIC was purchased by FMIC. FMIC took over the accounts and operations of SMIC.
 - i. Respondent explained to the Board that the accounts should be reconciled, but he never took action to perform any reconciliation.
10. As a licensee, Respondent knew or had reason to know that Section 1207(1) of the Code, MCL 500.1207(1), provides that an agent shall be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an 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.
11. Respondent violated Section 1207(1) of the Code by collecting premiums from insureds far in advance of when they were owed and failing to remit them to Auto-Owners. Respondent failed to turn over, in a timely manner, money he held in a fiduciary capacity.
12. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(d) of the Code MCL 500.1239(1)(d), by improperly withholding, misappropriating, or converting money received in the course of doing insurance business.
13. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), by using fraudulent or dishonest practices or by demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere
14. As a licensee Respondent knew or had reason to know that Section 1207(2) of the Code, MCL 500.1207(2), provides that an agent must use reasonable accounting methods to record the receipt and distribution of all premiums due, and that such records be open to inspection by DIFS.
15. Respondent violated Section 1207(2) of the Code by keeping records that did not record the amount of premiums remitted or whether premiums for a particular insured were remitted to Auto-Owners. As a consequence, such records were unavailable to DIFS for inspection.

16. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order the payment of a civil fine, the refund of any overcharges, that restitution be made to cover losses, damages or other harm attributed to Respondent's violation or violations of the Code, and/or other licensing sanctions, including revocation of licensure.
17. As a licensed producer, Respondent knew or had reason to know that Section 1239 of the Code, MCL 500.1239, provides in part:
 - (1) In addition to any other powers under this act, the commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under Section 1244 or any combination of actions, and the commissioner shall refuse to issue a license under Section 1205 or 1206a, for any 1 or more of the following causes:
 - * * *
 - (d) Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.
 - * * *
 - (h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.
18. Respondent has provided justification for discipline by collecting premiums from insureds far in advance of when they were owed and failing to remit them to Auto-Owners, and by using record keeping methods that logged only net amounts of premiums submitted to Auto-Owners and thus making it impossible to trace whether particular premiums for individual insureds had been remitted.
19. DIFS Staff has made reasonable efforts to serve Respondent and have complied with MCL 500.1238(2).
20. Respondent has received notice, has been given an opportunity to respond or 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 the Code.
2. Respondent shall immediately **CEASE** and **DESIST** from engaging in the business of insurance.

3. Pursuant to MCL 500.1207, MCL 500.1239(1)(d) and (h), and MCL 500.1244(1)(d), Respondent's resident insurance producer license (System ID No. 0165080) is **REVOKED**.

Anita G. Fox, Director
For the Director:



Randall S. Gregg, Deputy Director