

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. 18-15155
Agency No. 18-098-L

Petitioner,

v

Jennifer Bourcier
System ID No. 0310898

Respondent.
_____ /

Issued and entered
on JANUARY 7, 2019
by Randall S. Gregg
Deputy Director

FINAL DECISION

I. Background

Jennifer Bourcier (Respondent) is a licensed insurance producer. The Department of Insurance and Financial Services (DIFS) received information that Respondent used dishonest practices and demonstrated untrustworthiness and financial irresponsibility in the conduct of business by taking the premium payments of her customers and retaining the funds. Respondent was subsequently convicted of felony embezzlement and failed to report her criminal prosecution to DIFS as required per the Michigan Insurance Code (Code). After investigation and verification of the information, on October 2, 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 1247(2), 1239(1)(b) and (h) and 1244(1)(a-d) of the Code, MCL 500.1247(2), MCL 500.1239(1)(b) and (h) and 500.1244(1)(a-d). Respondent failed to reply to the NOSC.

On November 2, 2018, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent at the address she 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 December 14, 2018, 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. Respondent is an inactive resident producer who previously held accident and health (AH), life (LI), property (PR), and casualty (CS) qualifications. She was originally licensed May 21, 2003 – May 6, 2004, made inactive May 7, 2005 – September 18, 2014, became active again September 19, 2014 – February 28, 2018, and was suspended for continuing education noncompliance on March 3, 2018.
2. The case against Respondent has proceeded under Section 1239(5), of the Code, MCL 500.1239(5), which provides that the commissioner may enforce the provisions of and impose any penalty or remedy authorized by this act against any person who is under investigation for or charged with a violation of this act even if the person's license or registration has been surrendered or has lapsed by operation of law.
3. Respondent was appointed by the following three State Farm companies (collectively State Farm): State Farm Mutual Automobile Insurance Company for AH, State Farm Fire and Casualty Company for PR and CS, and State Farm Life Insurance Company for LI. On April 26, 2017, State Farm provided DIFS with a cancel for cause notification canceling Respondent's appointments.
4. On June 9, 2017, State Farm responded via email to DIFS' initial request for information alleging that Respondent's managing producer (MP) documented at least nine instances between August 16, 2016, and December 23, 2016, where Respondent deleted a customer's premium payment from the computer system and re-entered it at a later date. Additionally, between January 5, 2017, and February 8, 2017, Respondent's MP documented nine instances where Respondent received cash payments, and subsequently deleted the payments.
5. On or about July 7, 2017, DIFS Staff requested additional information from State Farm.
6. On September 20, 2017, DIFS Staff received an email from State Farm counsel, containing detailed documentation supporting the cancel for cause action.
7. On October 12, 2017, DIFS Staff sent a letter of inquiry to Respondent at her mailing address of record, which she is required by the Code to keep current with DIFS. There was no response, and the letter was not returned by the United States Postal Service (USPS). The same letter was emailed on November 27, 2017, to Respondent's email address of record with DIFS. No response was received.
8. DIFS Staff also ran a routine inquiry using Michigan's Internet Criminal History Access Tool (ICHAT). It disclosed a June 7, 2017 charge in Roscommon County Circuit Court (RCCC) of felony embezzlement – agent or trustee \$1000 or more but less than \$20,000.
9. On or about January 11, 2018, DIFS Staff sent a request to the RCCC asking for additional information. RCCC responded on the following day as follows: On October 24, 2017, the court

entered an order delaying sentence stating Respondent shall be placed on delayed sentence under the supervision of a probation officer for one year. Additionally, \$3,128.23 in monetary obligations is to be paid in monthly installments of \$75.00 until paid in full. Restitution in the amount of \$2,420.23 must be paid to EDF.

10. As a licensee, Respondent knew or had reason to know that Section 249(a) of the Code, MCL 500.249(a), states:

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.

11. As a licensee, Respondent knew or had reason to know that Section 1247(2) of the Code, MCL 500.1247(2), states:

(2) Within 30 days after the initial pretrial hearing date, an insurance producer shall report to the commissioner any criminal prosecution of the insurance producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

12. Respondent violated Section 1247(2) of the Code by failing to report a criminal action within 30 days following the initial pretrial hearing date.

13. As a licensee, Respondent knew or had reason to know that Section 1239(1)(b) and (h) of the Code, MCL 500.1239(1)(b) and (h), states:

(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:

(b) Violating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner.

(h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

14. Respondent has provided justification for sanctions, pursuant to Sections 1239(1)(b) and 1244(1) of the Code, MCL 500.1244(1) by failing to respond to letters of inquiry sent by DIFS Staff seeking information and supporting documentation in accordance with Section 249(a).
15. Respondent has provided justification for sanctions, pursuant to Sections 1239(1)(h) and 1244(1) of the Code by accepting insurance premium payments from clients and not applying the payments to the premium owed until a later date, and in other instances accepting payments and retaining the funds thus using dishonest practices and demonstrating untrustworthiness and financial irresponsibility in the conduct of business.
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, and/or other licensing sanctions, including revocation of licensure.
17. On October 2, 2018, an NOSC was mailed by first class mail to Respondent at her mailing address of record. No response was received, and the mail was not returned by the USPS.
18. On, November 5, 2018, An Administrative Complaint was mailed by first class mail to Respondent at her mailing address of record. No response was received, and the mail was not returned by the USPS.
19. On December 14, 2018, DIFS Staff filed a Motion for Final Decision. Respondent did not file a reply to the motion.
20. DIFS Staff has made reasonable efforts to serve Respondent and have complied with MCL 500.1238(2).
21. Respondent has received notice and has been given an opportunity to respond and appear and has neither responded nor appeared.
22. 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 500.249, MCL 500.1247(2), MCL 500.1239(1)(b) and (h), and MCL 500.1244(1)(a-d), Respondent's resident insurance producer license (System ID No. 0310898) is **REVOKED**.

Patrick M. McPharlin, Director
For the Director:



Randall S. Gregg, Deputy Director