

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. 13-11761

Agency Case No. 13-021-L

Petitioner,

v

Justin Lee McKinnon  
System ID No. 0606729

Respondent.

Issued and enter  
this 12<sup>th</sup> day of September 2013  
by Randall S. Gregg  
Deputy Director

**FINAL DECISION**

**I. BACKGROUND**

Respondent Justin Lee McKinnon (Respondent McKinnon) is a licensed insurance producer. In March of 2013, the Department of Insurance and Financial Services (DIFS) received information from Gerber Life Insurance Company (Gerber) that Respondent McKinnon in 2008 was convicted of misdemeanor Operating While Intoxicated and in 2013 was convicted of Felony 2<sup>nd</sup> degree home invasion. Gerber terminated Respondent McKinnon's appointment after he failed to respond to their request for information on the convictions. DIFS investigated the complaint and on June 26, 2013, issued a Notice of Opportunity to Show Compliance (NOSC) to Respondent McKinnon at his last known addresses alleging that Respondent McKinnon had provided justification for revocation of licensure pursuant to Sections 249, 1239(1)(f), and 1247(1) of the Michigan Insurance Code (Code), MCL 500.249, 500.1239(1)(f) and 500.1247(1). Respondent McKinnon failed to reply to the NOSC.

On July 26, 2013, DIFS issued an Administrative Complaint and Order for Hearing to Respondent McKinnon at his last known addresses. The Order for Hearing required Respondent McKinnon 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 McKinnon planned to attend the hearing, or request an adjournment. Respondent McKinnon failed to take any of these actions.

On August 28, 2013, DIFS staff filed a Motion for Final Decision. Respondent McKinnon did not file a reply to the motion. Given Respondent McKinnon'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. The Director is statutorily charged by the Code with the enforcement and responsibility to exercise general supervision and control over persons transacting the business of insurance in Michigan.
2. At all relevant times, Respondent McKinnon was a licensed resident insurance producer with qualifications in accident and health, and life.
3. Respondent McKinnon was appointed with Gerber Life Insurance Company (Gerber) on April 16, 2012.
4. On or about February 7, 2013, Respondent McKinnon notified Gerber that in 2008 he was convicted of misdemeanor Operating While Intoxicated and in 2013 he was convicted of Felony 2<sup>nd</sup> degree home invasion.
5. On or about February 12, 2013, Gerber placed Respondent McKinnon on paid suspension while they reviewed the circumstance. Gerber gave Respondent McKinnon until February 15, 2013 to provide a signed statement of explanation and copies of the court documents. Respondent McKinnon failed to provide that information.
6. On or about March 1, 2013, Gerber terminated for cause Respondent McKinnon's appointments due to his felony conviction and his failure to respond to their request for information and documentation.
7. On or about March 15, 2013, DIFS Staff sent Respondent McKinnon a letter of inquiry to his mailing address, as listed in DIFS's Licensing Database, regarding his criminal history. That letter was returned by the Post Office as "Refused."
8. On or about March 27, 2013, DIFS Staff sent a second letter to Respondent McKinnon to his home address, as listed in DIFS's Licensing Database. This letter was not returned by the Post Office and Respondent McKinnon did not respond to DIFS' Staff's letter.
9. As a licensee, Respondent McKinnon knew or had reason to know that Section 249 of the Code, MCL 500.249, allows the Director to ascertain compliance with the provisions of

the Insurance Code by requesting information from an insurance producer.

10. Respondent McKinnon failed to respond to DIFS' Staff's March 27, 2013 letter.
11. As a licensee, Respondent McKinnon knew or had reason to know that Section 1239(1)(f) of the Code, MCL 500.1239(1)(f), allows the Director to place on probation, suspend, revoke, or levy a civil fine under Section 1244 or any combination thereof, for "Having been convicted of a felony."
12. Respondent McKinnon was convicted of 2<sup>nd</sup> degree felony home invasion.
13. As a licensee, Respondent McKinnon knew or had reason to know that Section 1247(2) of the Code, MCL 500.1247(2), requires that within 30 days after the initial pretrial hearing date, an insurance producer shall report to the Director 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.
14. Respondent McKinnon failed to report his felony conviction to DIFS.
15. DIFS staff has made reasonable efforts to serve Respondent McKinnon and have complied with MCL 500.1238.
16. Respondent McKinnon has received notice and has been given an opportunity to respond and appear and has not responded or appeared.
17. Respondent McKinnon is in default and the Petitioner is entitled to have all allegations accepted as true.
18. Based upon the actions listed above, Respondent McKinnon has committed acts that provide justification for the Director to order the payment of a civil fine, refund of any overcharges, restitution made to cover losses, damages or other harm attributed to Respondent's violations of the Code, and/or licensing sanctions under 1244(1) of the Code, MCL 500.1244(1), for the Respondent McKinnon's violation of Sections 249, 1239(1)(f) and 1247(1) of the Code, MCL 500.249, 500.1239(1)(f) and 500.1247(1).

### III. ORDER

Based on the Respondent McKinnon's conduct and the applicable law cited above, it is ordered that:

1. Respondent McKinnon shall cease and desist from violating the Code.
2. Respondent McKinnon shall immediately cease and desist from engaging in the business

of insurance.

3. All insurance licenses of Justin Lee McKinnon are **REVOKED**.

R. Kevin Clinton, Director  
For the Director:

A handwritten signature in black ink, appearing to read "Randall S. Gregg", written over a horizontal line.

Randall S. Gregg, Special Deputy Director