

**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. 20-16113
Agency No. 20-050-L**

Petitioner,

v

Kurt E. Vonsteenburgh
System ID No. 0069022

Respondent.

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**Issued and entered
on December 22, 2020
by Randall S. Gregg
Senior Deputy Director**

FINAL DECISION

I. Background

Kurt E. Vonsteenburgh (Respondent) is a licensed resident insurance producer. The Department of Insurance and Financial Services (DIFS) received information that Respondent engaged in churning annuities and forging a signature on applications for life insurance. After investigation and verification of the information, on September 3, 2020, DIFS issued a Notice of Opportunity to Show Compliance (NOSC) alleging that Respondent violated Sections 2003, 2018, 4155(1), 4163(1), and 4503(a) and (b) of the Code, MCL 500.2003, 500.2018, 500.4155(1), 500.4163(1), and 500.4503(a) and (b) and provided justification for revocation of licensure and other sanctions pursuant to Sections 1239(1)(c), (f), (g), and (h), 1239(2)(e), and 1244(1)(a-d) of the Code, MCL 500.1239(1)(c), (f), (g), and (h), 500.1239(2)(e), and 500.1244(1)(a-d). Respondent failed to reply to the NOSC.

On October 29, 2020, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent at the address 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 replied to the Administrative Complaint but failed to show compliance or take any action required by the Order for Hearing. Respondent eventually ceased correspondence with DIFS.

On December 4, 2020, 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, Kurt E. Vonsteenburgh (System ID No. 0069022) (Respondent) was a licensed resident producer with qualifications in accident and health, life, and variable annuities. Respondent has been licensed since May 23, 1991.
2. DIFS received a complaint alleging Respondent engaged in churning annuities and forging a signature on applications for life insurance.
3. DIFS conducted an investigation in this matter, which revealed the following:
 - a. Between March 3, 2015 and December 21, 2016, Respondent wrote and submitted four (4) life insurance policies on behalf of MF with National Guardian Life Insurance Company (NGL) naming KD as the insured and the "NGL Trust" as the beneficiary. Each policy was written for \$30,000.00, and each policy appeared to contain the signature of KD. KD provided an affidavit stating he had received the applications and trust forms associated with the policies but did not ever sign the forms. Further, KD stated his date of birth, social security number, and phone number listed on some of the policies were incorrect.
 - b. On or about December 9, 2011, MF obtained a Jackson National Life (Jackson) fixed annuity, naming himself as the primary owner and KD as the beneficiary, funded in the amount of \$269,476.71. The following withdrawals from the Jackson policy and purchases of NGL life insurance policies occurred:
 - i. On or about March 6, 2014, \$30,000.00 was withdrawn from the Jackson policy. No surrender fees were incurred from this withdrawal. The \$30,000.00 was sent to MF via check. On or about April 24, 2014, policy 7487 was issued with NGL identifying SW as the insured. Policy 7487 was funded by a \$22,643.29 premium payment from MF's personal account.
 - ii. On or about January 23, 2015, \$31,746.03 was withdrawn from the Jackson policy. This surrender incurred a fee of \$1,746.03, leaving \$30,000.00 being sent to MF via check. On or about January 28, 2015, policy 6195 was issued with NGL listing SW as the insured. Policy 6195 was funded by a \$30,000.00 premium payment from MF's account.
 - iii. On or about February 23, 2015, \$31,746.03 was withdrawn from the Jackson policy. This withdrawal incurred surrender fees of \$1,746.03, leaving \$30,000.00 being sent to MF via check. On or about March 3, 2015, policy 6552 was issued with NGL after the policy was funded by a \$30,000.00 premium payment from MF's personal account.

- iv. On or about June 8, 2015, \$31,746.03 was withdrawn from the Jackson policy. This withdrawal incurred surrender fees of \$1,746.03, leaving \$30,000.00 being sent to MF via check. On or about June 9, 2015, policy 9758 was issued with NGL after the policy was funded by a \$30,000.00 premium payment from MF's personal account.
- v. On or about February 1, 2016, \$20,942.41 was withdrawn from policy 8653. This withdrawal incurred a surrender fee of \$942.41, leaving \$20,000.00 being sent to MF via check. On or about February 4, 2016, policy 2271 was issued with NGL listing SW as the insured. Policy 2271 was funded by a \$20,000.00 premium payment from MF's account.
- vi. On or about August 3, 2016, \$20,720.39 was withdrawn from the Jackson policy. This withdrawal incurred a surrender fee of \$932.44 and had a market value adjustment of \$211.53, leaving \$20,000.00 being sent to MF via check. On or about September 22, 2016, policy 8561 was issued with NGL listing SW as the insured. Policy 8561 was funded by a \$25,000.00 premium payment from MF's account.
- vii. On or about February 22, 2017, \$23,000.00 was withdrawn from the Jackson policy. This withdrawal did not incur a surrender fee. A payment of \$23,000.00 was sent to MF via check. On or about March 6, 2017, policy 0861 was issued with NGL listing SW as the insured. Policy 0861 was funded by a \$23,000.00 premium payment from MF's account.

c. Each of the NGL policies, above, were written and submitted by Respondent. Each of the applications for insurance asked the following questions regarding funding of the policy:

- 1. Do you have an existing insurance policy or annuity contract?
- 2. Will the insurance applied for replace or change any insurance or annuity now or recently owned?

The responses to these questions for all NGL policies was "YES" and "NO" respectively. By answering "NO" to the second question, these policies avoided NGL review as to suitability.

d. In addition to surrender fees, MF incurred extensive tax liability for withdrawing from his Jackson annuity. Additionally, Respondent gained substantial commissions in the handling of the Jackson and NGL policies.

e. On May 2, 2018, Jackson terminated their appointment with Respondent for evidence of churning and re-entry violations.

4. DIFS Investigator made several attempts to reach Respondent to review his records regarding these transactions utilizing the contact information Respondent is required to maintain on file. Respondent has yet to respond to the DIFS Investigator's requests for information regarding the complaint in this matter.

5. As a licensee, Respondent knew or had reason to know that Section 2018 of the Code, MCL 500.2018, provides that an unfair method of competition and an unfair or deceptive act or practice in the business of insurance includes making false or fraudulent statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, money, or other benefit from an insurer, agent, broker, or individual.
6. Respondent violated Section 2018 of the Code by submitting applications for insurance with forged signatures and knowingly false responses for the purpose of obtaining insurance, avoiding suitability review, and obtaining a commission from an insurer.
7. As a licensee, Respondent knew or had reason to know that Section 2003 of the Code, MCL 500.2003, prohibits a licensee from engaging in practices defined in the Code as being unfair methods of competition or an unfair or deceptive act or practice in the business of insurance.
8. Respondent violated Section 2003 of the Code by engaging in a trade practice that is defined in Section 2018 to be an unfair method of competition or an unfair and deceptive act or practice in the business of insurance, as set forth above.
9. As a licensee, Respondent knew or had reason to know that Section 4155(1) of the Code, MCL 500.4155(1), requires that in recommending the exchange of an annuity that results in another insurance transaction, the producer shall have reasonable grounds for believing the recommendation is suitable for the consumer.
10. Respondent violated Section 4155(1) by recommending multiple withdrawals of an annuity for the purchase of several life insurance policies, which resulted in surrender charges and increased tax liability to the consumer and lacked reasonable grounds of suitability.
11. As a licensee, Respondent knew or had reason to know that Section 4163(1) of the Code, MCL 500.4163(1), requires that a producer maintain records used in making insurance recommendations and make them available for review by the Director.
12. Respondent violated Section 4163(1) by failing to respond to DIFS' request to review recommendation records and, thus, failing to make available such records available for review.
13. As a licensee, Respondent knew or had reason to know that Sections 4503(a) and (b) of the Code, MCL 500.4503(a) and (b), prohibit licensees from knowingly preparing or presenting written or oral statements containing false information concerning any fact or thing material to the application for insurance with the intent to defraud, injure, or deceive.
14. Respondent violated Sections 4503(a) and (b) of the Code by preparing and submitting applications for insurance with forged signatures and knowingly false answers to questions on the application with the intent to gain insurance, deceive the insurance carrier as to the authenticity of the applications, and avoid suitability determinations.
15. As a licensee, Respondent knew or had reason to know that Section 1239(1)(c) of the Code, MCL 500.1239(1)(c), provides that they may be sanctioned for intentionally misrepresenting the terms of

- an application for insurance. As set forth above, Respondent submitted applications for insurance with forged signatures and knowingly false responses and, thus, provided justifications for sanctions, pursuant to Section 1239(1)(c) of the Code, MCL 500.1239(1)(c).
16. As a licensee, Respondent knew or had reason to know that Section 1239(1)(f) of the Code, MCL 500.1239(1)(f), provides that he may be sanctioned for having admitted or been found to have committed any insurance unfair trade practice or fraud. As set forth above, Respondent submitted applications for insurance with knowingly false information, violated the "Uniform Trade Practices Act," Sections 2003 and 2018 of the Code and, thus, provided justifications for sanctions, pursuant to Section 1239(1)(f) of the Code, MCL 500.1239(1)(f).
 17. As a licensee, Respondent knew or had reason to know that Section 1239(1)(g) of the Code, MCL 500.1239(1)(g), provides that he may be sanctioned for "[u]sing fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere." By submitting applications for insurance with knowingly false information, Respondent has engaged in fraudulent and dishonest practices and demonstrated incompetence and untrustworthiness in the conduct of business in this state and, thus, provided justification for sanctions, pursuant to Section 1239(1)(g) of the Code, MCL 500.1239(1)(g).
 18. As a licensee, Respondent knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), provides that he may be sanctioned for forging another's name to an application for insurance or to any document related to an insurance transaction. Respondent forged KD's signature on applications for insurance and, thus, provided justification for sanctions, pursuant to Section 1239(1)(h) of the Code, MCL 500.1239(1)(h).
 19. As a licensee, Respondent knew or had reason to know that Section 1239(2)(e) of the Code, MCL 500.1239(2)(e), provides that he may be sanctioned for violating any insurance laws or statutory regulations. As set forth above, Respondent has violated Sections 2003, 2018, 4155(1), 4163(1), and 4503(a) and (b) of the Code, MCL 500.2003, 500.2018, 500.4155(1), 500.4163(1), and 500.4503(a) and (b) and, thus, provided justification for sanctions, pursuant to Section 1239(2)(e) of the Code, MCL 500.1239(2)(e).
 20. 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.
 21. On September 3, 2020, a Notice of Opportunity to Show Compliance was mailed by first class mail to Respondent at the following addresses on file: Mr. Kurt E. Vonsteenburgh, 1668 S. Dow Rd., West Branch, MI 48661. No response was received nor was the mail returned.
 22. On October 29, 2020, 2020, true copies of an Administrative Complaint, Order for Hearing and Notice of Hearing were mailed by first class mail to Respondent at the following addresses on file: Mr. Kurt E. Vonsteenburgh, 1668 S. Dow Rd., West Branch, MI 48661. No response was received nor was the mail returned.

23. In paragraph 3 of the Order for Hearing, the Respondent was ordered to do one of the following within 21 days of the date of the Order: 1) agree to a resolution with the opposing party, 2) file a response to the allegations in the Administrative Complaint and file a statement that Respondent plans to attend the hearing as scheduled, or 3) file a request for an adjournment. Paragraph 5 states that failure to make the required filing shall constitute the default of Respondent in this contested case.
24. Respondent has failed to take any of the actions required by paragraph 3 of the Order. See Petitioner's Exhibit 1, Affidavit of Christy Capelin.
25. Despite DIFS Staff having made reasonable efforts to serve Respondent and having complied with 500.1238(2), Respondent has failed to appear and defend.
26. Respondent has received notice and has been given an opportunity to respond and appear and has not responded as required nor appeared.
27. 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 500.2003, 500.2018, 500.4155(1), 500.4163(1), and 500.4503(a) and (b), MCL 500.1239(1)(c), (f), (g), and (h), 500.1239(2)(e), and MCL 500.1244(1)(d), Respondent's resident insurance producer license (System ID No. 0069022) is **REVOKED**.

Anita G. Fox, Director
For the Director:



Randall S. Gregg
Senior Deputy Director