

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. 19-15672
Agency No. 19-431-L

Petitioner,

v

Larry Joe Mikula
System ID No. 0035219

Respondent.

_____ /

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

ORDER

I. Background

Larry Joe Mikula (Respondent) is a licensed public adjuster. The Department of Insurance and Financial Services (DIFS) received a consumer complaint about Respondent. DIFS sent Respondent a copy of the complaint and requested that Respondent provide a response and submit related documentation by June 27, 2019. Having received no response from Respondent by the June 27, 2019, deadline, DIFS issued a Notice of Opportunity to Show Compliance (NOSC) on July 15, 2019, alleging that Respondent provided justification for 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 by its July 22, 2019, deadline.

On or about September 16, 2019, Respondent submitted a response to LW's consumer complaint through his attorney, Issa G. Haddad, Haddad Law Firm, PLC. This response was submitted to the DIFS analyst who was first assigned to investigate the consumer complaint.

On October 11, 2019, DIFS issued an Administrative Complaint for Respondent's failure to respond and an Order for Hearing which were served upon Respondent at the address he is required to maintain with DIFS. At the time DIFS issued the Administrative Complaint, the Staff Attorney assigned with this enforcement

matter was not aware of the response submitted by Respondent's attorney to the DIFS analyst. The Office of General Counsel was made aware of this response on October 29, 2019.

DIFS Staff reviewed the submission from Respondent's attorney dated September 16, 2019 and determined that further information was still required to investigate the underlying consumer complaint from LW. DIFS sent an email to Respondent's attorney on November 25, 2019, outlining the information that was still required to investigate the underlying complaint from LW. This email indicated that a response would be required by December 23, 2019, with a specific request for information. No response was submitted to DIFS by the December 23, 2019, deadline.

On April 20, 2020, DIFS filed a First Amended Complaint based upon Respondent's failure to reply to the November 25, 2019, request for further information. The First Amended Complaint was accompanied with an Order for Hearing. 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 did not submit a timely reply to the First Amended Complaint. On July 15, 2020, the day before the date identified on the Notice of Hearing as the date for the hearing in this matter, Respondent's attorney contacted Petitioner's attorney regarding this proceeding and requested a final opportunity to provide DIFS with the requested information. On July 15, 2020, DIFS Staff Attorney sent an email to Respondent's attorney restating the same items that were requested in the November 25, 2019, email and the April 20, 2020, First Amended Complaint. This email provided a final deadline of July 29, 2020, to provide a response to this request for further information. No response has been provided by Respondent.

On August 26, 2020, DIFS Staff filed a Motion for Interim Order. 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, Larry Joe Mikula (Respondent) was a licensed public adjuster.
1. On June 13, 2019, DIFS Staff mailed a letter of inquiry to Respondent regarding a consumer complaint that DIFS had received from LW regarding Respondent. The letter of inquiry specifically requested that Respondent provide DIFS with a detailed response that supported his position and addressed the complainant's concerns.
2. The letter dated June 13, 2019, was mailed to Respondent's business address on record with DIFS: Larry Joe Mikula, 1892 Eldon Grv, Lansing, MI 48917-9761.
3. The letter dated June 13, 2019, indicated that DIFS required a response by June 27, 2019.
4. Respondent did not respond to this letter of inquiry by the June 27, 2019, deadline.
5. On July 15, 2019, DIFS mailed and emailed a Notice of Opportunity to Show Compliance (NOSC) to Respondent regarding his failure to reply to the letter of inquiry. The NOSC instructed Respondent

- to do the following: (1) provide the complete response requested in the letter of inquiry, and (2) provide an explanation for his failure to timely respond to the initial inquiry.
6. The NOSC was mailed to Respondent's business address on record with DIFS: Larry Joe Mikula, 1892 Eldon Grv, Lansing, MI 48917-9761. The NOSC was also emailed to [REDACTED]@hotmail.com.
 7. The NOSC indicated that DIFS required a response by July 22, 2019.
 8. Respondent did not respond to the NOSC by July 22, 2019.
 9. On or about September 16, 2019, Respondent submitted a response to LW's consumer complaint through his attorney, Issa G. Haddad, Haddad Law Firm, PLC. This response was submitted to the DIFS analyst who was first assigned to investigate the consumer complaint.
 10. On October 11, 2019, DIFS issued an Administrative Complaint to Respondent for failure to respond to the NOSC and alleged a violation of Section 249 of the Code. MCL 500.249.
 11. At the time DIFS issued the Administrative Complaint, the Staff Attorney assigned with this enforcement matter was not aware of the response submitted by Respondent's attorney to the DIFS analyst. The Office of General Counsel was made aware of this response on October 29, 2019.
 12. DIFS Staff reviewed the submission from Respondent's attorney dated September 16, 2019, and determined that further information was still required to investigate the underlying consumer complaint from LW.
 13. DIFS sent an email to Respondent's attorney on November 25, 2019, outlining the information that was still required to investigate the underlying complaint from LW. This email indicated that a response would be required by December 23, 2019, with the following information or documentation:
 - a. As stated in the response provided, Mr. Mikula is willing to issue a written statement dismissing his services from [LW's] claim. Please provide DIFS with a copy of the release and advise if it has been provided to State Farm;
 - b. In addition, please provide a detailed accounting of the payments Mr. Mikula has signed regarding [LW's] claim. The accounting should include check amounts, check numbers, and a copy of the checks;
 - c. Finally, please provide DIFS with a signed copy of [LW's] adjuster contract.
 14. Not having received a response to the November 25, 2019, request for additional information, DIFS issued a First Amended Complaint on April 20, 2020, limiting the scope of Respondent's failure to respond to the request identified in paragraph 14 of the Motion. The First Amended Complaint was served to Respondent's attorney, Issa G. Haddad, 30600 Telegraph, Suite 3150, Bingham Farms, MI 48205.

15. The First Amended Complaint was attached with Notice of Hearing for July 16, 2020. However, the First Amended Complaint also indicated that failure to respond to the First Amended Complaint by May 12, 2020, with the additional information requested by DIFS as specified above, would result in the cancellation of this hearing and in the entry of a Final Decision by Default.
16. Respondent did not submit any response to the First Amended Complaint by May 12, 2020.
17. On July 15, 2020, the day before the scheduled hearing in this matter, Respondent's attorney contacted DIFS Staff Attorney Diego Avila via telephone, requesting an opportunity to provide DIFS with the information that was required to remedy Respondent's failure to respond.
18. On July 15, 2020, DIFS Staff Attorney sent an email to Respondent's attorney restating the same items that were requested in the November 25, 2019, email and the April 20, 2020, First Amended Complaint. This email provided a final deadline of July 29, 2020, to provide a response to this request for further information.
19. Respondent has failed to provide the requested information outlined above to DIFS.
20. As a licensee, Respondent knew or should have known that Section 249 of the Code, MCL 500.249, requires that licensees respond to inquiries from DIFS Staff. By failing to respond to DIFS' inquiries, Respondent has violated Section 249 of the Code, MCL 500.249.
21. As a licensee, Respondent knew or should have known that Section 1242(2) of the Code, MCL 500.1242(2), provides that his license may be suspend for violating any provision of the Code. As set forth above, Respondent has violated Section 249 of the Code and, thus, provided justifications for sanctions, pursuant to Section 1242(2) of the Code.
22. 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.
23. 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.
24. DIFS Staff have made reasonable efforts to serve Respondent and have complied with MCL 500.1238(2).
25. Respondent has received notice and has been given an opportunity to respond and appear and has not responded nor appeared.
26. Respondent is in default and the Petitioner is entitled to have all allegations accepted as true.

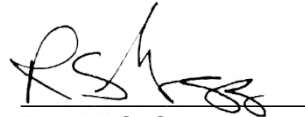
III. Order

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

1. Respondent shall CEASE and DESIST from violating Section 249 of the Code, MCL 500.249.
2. Respondent Larry Joe Mikula's public adjuster license (System ID No. 0035219) is SUSPENDED commencing the day immediately following issuance of this Order. Respondent's license shall only be reinstated if the conditions of paragraph 3 and 4 are met.
3. Respondent shall pay civil and administrative fines in the amount of \$500 by the date identified on the DIFS invoice.
4. Respondent shall provide a complete response to the request for additional information originally sent on November 25, 2019, within 21 days of the date of this Order to Staff Attorney, Diego R. Avila.

Anita G. Fox, Director

For the Director:

A handwritten signature in black ink, appearing to read 'RS Gregg', written over a horizontal line.

Randall S. Gregg,
Senior Deputy Director