

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,  
  
Petitioner,

Enforcement Case No.: 17-15029  
Agency No.: 17-027-L

v

Keri Lynn Mizner,  
System ID No.: 0526507

Respondent.

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Issued and entered  
on March 11, 2019  
by Randall S. Gregg  
Senior Deputy Director

FINAL DECISION

I. Background

Keri Lynn Mizner (Respondent) is a licensed resident insurance producer. The Department of Insurance and Financial Services (DIFS) received information that Respondent engaged in unfair methods of competition and in unfair and deceptive practices, made false or fraudulent statements or representations relative to applications for insurance policies, misappropriated or converted money received in the course of doing insurance business, used fraudulent or dishonest practices or demonstrated incompetence or untrustworthiness, forged an electronic signature, and failed to respond to requests by DIFS investigators. After investigation and verification of the information, on November 20, 2017, 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 January 9, 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 February 8, 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. At all relevant times, Keri Lynn Mizner (System ID No. 0526507) (Respondent) was a licensed resident insurance producer, with qualifications in accident and health, casualty, life and property. Respondent has been licensed since January 1, 2011.
2. On or about June 29, 2016, Columbian Life Insurance Company terminated Respondent Mizner's appointment for life insurance.
3. On or about January 23, 2017, DIFS received information that Respondent Mizner may have been submitting fraudulent information on life insurance applications and arranging for premium payments to be drawn from her own bank account. DIFS' investigation revealed violations by Respondent Mizner involving applications for the following individuals:

### **BF**

- a. On January 25, 2016, Respondent Mizner submitted a 20-year term life insurance application to Columbian Life Insurance Company for BF, policy #2021459995, with a monthly payment of \$133.75.
- b. Payment for policy #2021459995 was set up for electronic funds transfer (EFT) from Respondent Mizner's bank account number.
- c. Respondent Mizner was identified in the application for policy #2021459995 as the name of the bank account holder.
- d. On May 17, 2016, Respondent Mizner submitted a 20-year term life insurance application to Columbian Life Insurance Company for BF, policy #2021488936, with a monthly payment of \$274.37.
- e. Payment for policy #2021488936 was set up for EFT from Respondent Mizner's bank account number.
- f. BF was identified in the application for policy #2021488936 as the name of the bank account holder. This was false, as it was Respondent Mizner's account, as stated in the earlier application for policy #2021459995.
- g. According to Columbian Life Insurance Company, neither policy was in force because the underwriting requirements were not completed.
- h. The initial premiums were drafted from Respondent Mizner's bank account. When Columbian Life Insurance Company attempted to send refund checks to BF, they were returned as undeliverable. Columbian Life then sent the refund checks to Respondent Mizner for delivery.
- i. BF informed DIFS investigators that he was only interested in obtaining quotes from Respondent Mizner and did not want to apply for any policies.

- j. BF informed DIFS investigators that he never paid for any premiums, and was not given a refund.

#### **JW**

- k. On March 24, 2016, Respondent Mizner submitted two (2) life insurance applications to Columbian Life Insurance Company for JW. One application was for a 30-year term/100% ROP policy, #2021475314, with a monthly payment amount of \$138.01. The other application was for a 20-year term/Non-ROP policy, #2021475287, with a monthly payment amount of \$30.10.
- l. JW did not request, want, or authorize an application for policy #2021475314. JW instead only wanted and authorized the application for policy #2021475287, the 20-year term/Non-ROP policy with a monthly payment amount of \$30.10. JW states that he did not sign—or agree to sign—the application for policy #2021475314.
- m. Payment for policy #2021475314 and for #2021475287 was set up for EFT from JW's bank account. JW did not ask for, want, or authorize EFT from his bank account for policy #2021475314.
- n. JW repeatedly contacted Respondent Mizner several times and requested that she cancel policy #2021475314. However, Respondent Mizner did not cancel the policy. Ultimately JW contacted Columbian Life Insurance Company himself to cancel the policy. Policy premiums were withdrawn from JW's account for several months before he could cancel the policy.

#### **EO**

- o. On May 18, 2016, Respondent Mizner submitted a 20-year term life insurance application to Columbian Life Insurance Company for EO, policy #2021489472, with a monthly payment amount of \$216.75.
  - p. Payment for policy #2021489472 was set up for EFT from Respondent Mizner's bank account number.
  - q. EO was identified in the application for policy #2021489472 as the name of the bank account holder. This was false, as it was Respondent Mizner's account.
4. Mark Horning, Respondent Mizner's now-former employer, told DIFS investigators that Respondent Mizner received advance commissions for her sales of Columbian Life policies. Under this system, the application for insurance is submitted along with the first premium payment. If the application is approved, then Respondent Mizner would receive an advance commission of 75-80% of the annualized premiums, which would be paid to her within a few weeks of the application. If the policy is later cancelled, then Respondent Mizner would receive a "chargeback" and would have to pay whatever amount of commission had been unearned at the time of cancellation. However, the chargebacks often take months to process. In this way, Respondent Mizner could—with a single premium payment drawn from her account—receive an advance commission based upon a full year of premiums, even if the policy cancelled after the first month.

5. Mark Horning was responsible for Respondent Mizner's chargebacks if she failed to pay them. When Columbian Life cancelled Respondent Mizner's appointment, Mark Horning was left responsible for over \$9000 in chargebacks on advance premiums to Respondent Mizner.
6. Respondent Mizner failed to respond to requests by DIFS investigators on the following occasions:
  - a. On May 16, 2017, DIFS Investigator Sara Chaney contacted Respondent Mizner by telephone, and Respondent Mizner agreed to call the following day to schedule an appointment to meet. Respondent Mizner failed to call as agreed.
  - b. On May 22, 2017, DIFS Investigator Sara Chaney sent a certified letter to Respondent Mizner's home address requesting the customer files for 4 insureds. On June 2, 2017, that letter was received by "Keri Mizner." Respondent Mizner then contacted Investigator Chaney by telephone and agreed to produce the documents. However, Respondent Mizner failed to provide any documents to Investigator Chaney.
7. As a licensee, Respondent knew or had reason to know that Section 2024 of the Code, MCL 500.2024, provides that the following are defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.
8. Respondent violated Section 2024 of the Code by using her own bank account on the applications for BF and EO, and by paying the premiums for BF.
9. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), by violating Section 2024 of the Code, MCL 500.2024.
10. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(g) of the Code, MCL 500.1239(1)(g), by committing unfair methods of competition and unfair and deceptive acts or practices under Section 2024 of the Code, MCL 500.2024.
11. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), by engaging in conduct defined by the Code as "unfair methods of competition and unfair and deceptive acts or practices" under Section 2024 of the Code, MCL 500.2024.

12. 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.
13. Respondent violated Section 2018 of the Code by submitting applications for insurance policies that BF and JW did not want or authorize, and by falsely stating or representing that Respondent Mizner's bank account was held by either BF or EO, and doing so for the purpose of earning fees, commissions, money, or other benefits — including but not limited to advance commissions — from an insurer, agent, broker, or individual, as set forth above.
14. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), by violating Section 2018 of the Code, MCL 500.2018.
15. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(g) of the Code, MCL 500.1239(1)(g), by committing an unfair method of competition and unfair and deceptive act or practice under Section 2018 of the Code, MCL 500.2018.
16. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), by engaging in conduct defined by the Code as an "unfair method of competition and unfair and deceptive act or practice in the business of insurance" under Section 2018 of the Code, MCL 500.2018.
17. Respondent has further provided justification for sanctions pursuant to Section 1239(1)(d) of the Code, MCL 500.1239(1)(d), by submitting an insurance application for JW's policy #2021475314 without his consent, by establishing an EFT to pay the policy automatically without JW's knowledge, and by refusing or failing to cancel the policy when he requested that it be cancelled.
18. Respondent has further provided justification for sanctions pursuant to Section 1239(1)(e) of the Code, MCL 500.1239(1)(e), by submitting applications for insurance policies for BF that he understood to be only quotes, by submitting two applications for insurance for JW when he agreed to only one, and by falsely stating or representing on applications for insurance that Respondent Mizner's bank account was held by either BF or EO.
19. Respondent has further provided justification for sanctions pursuant to Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), by fraudulently, dishonestly, or incompetently submitting applications for insurance policies that BF and JW did not want or authorize, and by fraudulently, dishonestly, or incompetently stating or representing that Respondent Mizner's bank account was held by either BF or EO, by failing to cancel a policy once requested by JW.
20. Respondent has provided justification for sanctions pursuant to Section 1239(1)(j) of the Code, MCL 500.1239(1)(j), by submitting the application for JW policy #2021475314 with an electronic signature that he did not sign or agree to sign electronically.
21. As a licensee, Respondent knew or had reason to know that Section 249 of the Code, MCL 500.249, provides, in pertinent part:

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.

22. Respondent violated Section 249 of the Code by failing to respond to requests by DIFS investigators to provide customer files, as well as by failing to schedule an appointment to meet after having agreed to do so. This failure interfered with DIFS' ability to determine whether Respondent engaged in further unlawful practices beyond what is set forth here.
23. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(b) of the Code, by their violation of Section 249 of the Code, as set forth above.
24. 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.
25. DIFS Staff have made reasonable efforts to serve Respondent and have complied with MCL 500.1238(2).
26. Respondent has received notice and has been given an opportunity to respond and appear and has not responded 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 500.249, MCL 500.1239(1)(b),(e) and (h), and MCL 500.1244(1)(d), Respondent's resident insurance producer license (System ID No. 0526507) is **REVOKED**.

Anita G. Fox, Director  
For the Director:



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Randall S. Gregg, Senior Deputy Director