

**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. 17-14869
Agency No. 18-038-L**

Petitioner,

v

Nathan Moore
System ID No. 0668250

Respondent.
_____ /

ISSUED AND ENTERED

on May 28th, 2019
by **Randall S. Gregg**
Deputy Director

FINAL DECISION

I. Background

Nathan Moore (Respondent) is a licensed 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, used fraudulent or dishonest practices, and demonstrated incompetence or untrustworthiness. After investigation and verification of the information, on January 9, 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 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 March 28, 2018, 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 failed to respond or take any action.

On June 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. At all relevant times, Nathan Moore (System ID No. 0668250) (Respondent) was a licensed resident insurance producer, with a qualification in life. Respondent has been licensed since January 29, 2014.
1. On or about October 11, 2016, Respondent was appointed with United of Omaha Life Insurance Company (United of Omaha).
2. On or about February 17, 2017, Respondent's appointment with United of Omaha was terminated for cause. United of Omaha's termination was based upon its own investigation, which found that Respondent impersonated an insured during a telephone interview related to an application for insurance:
 - a. On January 19, 2017, Respondent submitted an application for life insurance for WS, a Michigan resident.
 - b. On the application, all questions regarding health conditions were answered "no," including one specifically asking about diagnoses or treatment for cancer in the preceding 2 years.
 - c. On January 24, 2017, United of Omaha underwriters attempted to reach WS for a telephone interview. WS's daughter informed United of Omaha that her father was not home and that he was in the hospital for a procedure.
 - d. On January 25, 2017, United of Omaha received an in-bound telephone call from a person identifying themselves as WS seeking to complete the telephone interview. The telephone call originated from Respondent's phone number.
 - e. During the January 25, 2017 telephone interview, the person answering questions again answered "no" to each of the health questions, including questions specifically asking about surgeries or treatment for cancer.
 - f. On or about January 31, 2017, a United of Omaha underwriting representative placed an out-bound telephone call to WS and completed another interview.
 - g. During this second interview, WS told United of Omaha that he had a surgical procedure on January 24, 2017 related to cancer.
 - h. WS admitted that cancerous tumors had been found following a biopsy performed in October of 2016.
 - i. WS further stated to United of Omaha that he informed Respondent—before the application was submitted—about the biopsy and that he would be having the surgical procedure performed.

- j. United of Omaha recorded both interviews, and the voices for WS do not compare favorably.
 - k. In response to questions from United of Omaha, Respondent stated that he and WS filled out the application together in WS's home, that he received notice that a telephone interview was required, and that he went back to WS's home and had him complete the interview from his cell phone. Respondent stated he was not aware of any subsequent interview.
3. During the January 31, 2017 interview, WS made no attempt to withhold information about the surgery or biopsy, and freely discussed both during the interview.
 4. Although WS willingly discussed his surgery and biopsy during the January 31, 2017 interview, there was no mention of either during the January 25, 2017 interview—even though that would have been the day he was released from the hospital following the surgery.
 5. At no point in the January 31, 2017 interview did WS refer to the prior interview on January 25, or question why the interview was being conducted again, although the questions were essentially identical in both interviews.
 6. It is apparent that someone other than WS completed the January 25, 2017 interview.
 7. In his statement to United of Omaha, Respondent admitted that the January 25, 2017 interview was completed on his cell phone and claimed that he was present when WS completed the interview.
 8. Therefore, either Respondent impersonated WS during the January 25, 2017 interview with underwriters for United of Omaha, or he allowed someone other than WS to use Respondent's cell phone to complete that interview.
 9. As a licensee, Respondent knew or had reason to know that Section 2003 of the Code, MCL 500.2003, prohibits unfair methods of competition or unfair or deceptive acts as follows:

A person shall not engage in a trade practice that is defined or described in this chapter or is determined under this chapter to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.
 10. As a licensee, Respondent knew or had reason to know that Section 2018 of the Code, MCL 500.2018, prohibits false statements made to induce insurance applications and the consequent payment of commissions, fees or other benefits as follows:

An unfair method of competition and an unfair or deceptive act or practice in the business of insurance include 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.
 11. Respondent violated Sections 2003 and 2018 of the Code by engaging in an unfair or deceptive act or practice in the business of insurance by making false or fraudulent statements related to an application

for insurance—specifically, Respondent made false statements about WS's health on the application for insurance, and impersonated—or knowingly allowed someone else to impersonate—WS in a telephone interview on January 25, 2017.

12. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), for violating Sections 2003 and 2018 of the Code.
13. As a licensee, Respondent knew or should have known that Section 1239(1)(e) of the Code, MCL 500.1239(1)(e), provides that the Director may place on probation, suspend or revoke an insurance producer's license and/or levy a civil fine under Section 1244 for any of the following reasons, among others:

* * *

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

14. Respondent has provided justification for sanctions pursuant to Section 1239(1)(e) of the Code by submitting applications for WS that contained false statements about WS's health.
15. As a licensee, Respondent knew or should have known that Section 1239(1)(g) of the Code, MCL 500.1239(1)(g), provides that the Director may place on probation, suspend or revoke an insurance producer's license and/or levy a civil fine under Section 1244 for any of the following reasons, among others:

* * *

(g) Having admitted or been found to have committed any insurance unfair trade practice or fraud.

16. Respondent has provided justification for sanctions pursuant to Section 1239(1)(g) of the Code by committing unfair practice in the business of insurance under Sections 2003 and 2018 of the Code.
17. As a licensee, Respondent knew or should have known that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), provides that the Director may place on probation, suspend or revoke an insurance producer's license and/or levy a civil fine under Section 1244 for any of the following reasons, among others:

* * *

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

18. Respondent has provided justification for sanctions pursuant to Section 1239(1)(h) of the Code by fraudulently, dishonestly, or incompetently submitting applications for insurance policies that

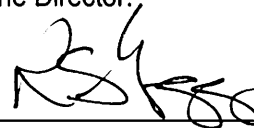
- contained false statements, and by impersonating—or knowingly allowing someone else to impersonate—WS in a telephone interview with insurance underwriters.
19. As a licensee, Respondent knew or should have known that Section 249 of the Code, MCL 500.249, requires that licensees respond to inquiries from DIFS Staff.
 20. On January 9, 2018, a NOSC was mailed by first class mail to Respondent at his addresses of record on file with DIFS.
 21. No response has been received from Respondent.
 22. By failing to respond to DIFS' inquiries, Respondent has violated Section 249 of the Code, MCL 500.249.
 23. As a licensee, Respondent knew or had reason to know that Section 1239(1)(b) of the Code, MCL 500.1239(1)(b), provides that he may be sanctioned for violating any insurance laws. As set forth above, Respondent has violated Section 249 of the Code and, thus, provided justifications for sanctions, pursuant to Section 1239(1)(b) of the Code.
 24. On March 28, 2018, true copies of an Administrative Complaint, Order for Hearing and Notice of Hearing were mailed by first class mail to Respondent at his addresses of record on file with DIFS.
 25. DIFS has not received a response from the Respondent.
 26. 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, 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.
 27. 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.
 28. Despite DIFS Staff having made reasonable efforts to serve Respondent and having complied with 500.1238(2), Respondent has failed to appear and defend.
 29. Respondent has received notice and has been given an opportunity to respond and appear and has not responded nor appeared.
 30. Respondent has provided justification for discipline by engaging in the conduct and statutory violations described above.
 31. 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), (g) and (h), and MCL 500.1244(1)(d), Respondent's resident insurance producer license (System ID No. 0668250) is **REVOKED**.

Anita G. Fox, Director
For the Director:



Randall S. Gregg, Senior Deputy Director