

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

National Processing Center d/b/a Mail Tech LLC

Enforcement Case No. 15-12519

and

Christopher J. Covington

Respondents.

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**Issued and entered
on June 11, 2015
by Teri L. Morante
Chief Deputy Director**

**ORDER TO CEASE AND DESIST WITH STATEMENT OF FINDINGS
AND NOTICE OF OPPORTUNITY FOR HEARING**

Pursuant to Section 251 of the Michigan Insurance Code (Code), MCL 500.251, and after reviewing evidence of the conduct described in the attached Statement of Findings, and;

WHEREAS, the Director of the Department of Insurance and Financial Services finds that immediate action is necessary and appropriate in the public interest for the protection of the public health, safety, and welfare, and consistent with the purposes fairly intended by public policy and provisions of the Code,

IT IS THEREFORE ORDERED THAT:

1. The Respondents shall immediately **CEASE AND DESIST** from all activities in violation of the Code as described in the Statement of Findings.
2. A copy of this Order shall be immediately served upon Respondents. As to any Respondent, this Order shall be effective upon the date of service.
3. Respondents will have 30 calendar days after the service of this Order to contest it by requesting a hearing. Within 10 calendar days after receiving the request, the hearing process shall commence. This Order shall remain in effect until further order of the Director. Any request for a hearing should be addressed to the Department of Insurance and Financial Services, Attention: Tracy A. Janousek, Hearings Clerk, P.O. Box 30220, Lansing, MI 48909-7720 or faxed to 517-284-8843.

4. Any such hearing held shall address the following issues:
 - a. The facts set forth in the Statement of Findings.
 - b. The continuation of the Order to Cease and Desist.
 - c. Restitution to be paid by the Respondents.
5. If a hearing is requested, an administrative law judge from the Michigan Administrative Hearing System shall preside over any such hearing.
6. The Director retains jurisdiction of the matters contained herein and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate.
7. Pursuant to Section 251(6) of the Code, MCL 500.251(6), a person who violates or otherwise fails to comply with an Order to Cease and Desist is subject to one or more of the following:
 - a. Payment of a civil fine of not more than \$1,000 for each violation not to exceed an aggregate civil fine of \$30,000. However, if the person knew or reasonably should have known the conduct was in violation of the cease and desist order, the person shall be subject to a civil fine of not more than \$25,000 for each violation not to exceed an aggregate civil fine of \$250,000.
 - b. Suspension or revocation of the person's license or certificate of authority.
 - c. Complete restitution, in the form, amount, and within the period determined by the Director, to all persons in Michigan damaged by the violation or failure to comply.



Teri L. Morante
Chief Deputy Director

Dated: June 11, 2015

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STATEMENT OF FINDINGS

1. Pursuant to Executive Order 2013-1 all authority, powers, duties, functions, and responsibilities of the Commissioner of the Office of Financial and Insurance Regulation have been transferred to the Director of the Department of Insurance and Financial Services (DIFS).
2. Pursuant to Section 251(1) of the Code, MCL 500.251(1), the Director is empowered to issue a cease and desist order if the Director finds any of the following:
 - (a) A person is conducting transactions of insurance for which a certificate of authority is required by this act without having obtained a certificate of authority.
 - (b) A person is acting as an insurance agent, solicitor, adjuster, or counselor without a license as required by this act.
 - (c) A person is engaged in an act or practice in the business of insurance for which authority from or notification to the commissioner is required by this act and the person has not received authority or given notification.
 - (d) A person authorized to engage in the business of insurance under this act is engaged in conduct that presents an immediate danger to public health, safety, or welfare.
3. Under Section 1201a of the Code, it is a violation for a person to sell, solicit, or negotiate insurance in this state for any line of insurance without first obtaining a license or qualification for that line. MCL 500.1201a(1).
 - a. "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance

concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers. MCL 500.1201(k).

- b. "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company. MCL 500.1201(l).
 - c. "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company. MCL 500.1201(m).
4. Under Section 1208a of the Code, an insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. MCL 500.1208a(1).
 5. Under Rule 4 of the Administrative Code 500.654(6), an insurer, agent, or other person shall not use a lead-generating device or list of prospective insureds compiled therefrom unless such lead-generating device contains the following or substantially similar language in the same size of type as the rest of the information and is not hidden or placed in a position to render it obscure: "This request for information is insurance related and if you respond you may be contacted in an attempt to sell you insurance."
 6. Under Rule 14 of the Administrative Code 500.664(3):

Advertisements, envelopes, or stationery which employs color, words, letters, initials, symbols, or other devices which are similar to those used by governmental agencies is not permitted if it may lead the public to believe either of the following:

 - (a) That the advertised coverages are somehow provided or endorsed by such governmental agencies.
 - (b) That the advertiser is the same as, is connected with, or is endorsed by, such governmental agencies.
 7. On February 18, 2015, DIFS Staff received a complaint from D.S. alleging that he received a mailer from NPC that may be in violation of DIFS' February 22, 2012, Order to Cease and Desist issued to Respondents. A review of DIFS' records revealed that Respondents are not licensed under the Code and have engaged in the very same activity that resulted in the issuance of an Order to Cease and Desist by DIFS on February 22, 2012.
 8. After an investigation, DIFS' Staff concluded that Respondents have engaged in activities regulated by the Code, without the requisite license, and have violated the insurance laws of this state and the February 22, 2012 Order to Cease and Desist.
 9. Specifically, DIFS Staff found that the Respondents were using the US Postal Service to send a lead generating device to a Michigan resident for the purpose of compiling

personal information for future insurance solicitations. The lead generating device pertained to Medicare. It was printed in red, white and blue and requested that recipient respond with his name, birthdate, telephone number, spouse's name and spouse's birthdate. The reply card was addressed to "National Processing Center, PO Box 409, Durant OK 74702-9918." Although the lead generating device implies it is from a government agency, it is not.

10. Furthermore, the lead generating mail did not contain the required disclosure: "[t]his request for information is insurance related and if you respond you may be contacted in an attempt to sell you insurance."
11. DIFS Staff found that Brad Aycock, Manager for Respondent National Processing Center, is responsible for PO Box 49. The Respondent National Processing Center applied and paid for the prepaid postage permit number seven used to send out the lead generating devices and to receive the reply cards from the Michigan resident. Respondent Christopher J. Covering is listed as the contact person for permit number seven.
12. As previously stated, on February 22, 2012, DIFS issued to Respondents an Order to Cease and Desist from conducting unlicensed insurance producer business and mailing lead generating devices to Michigan residents. The Order further indicated that Respondent violated MCL 500.1201a(1), Rule 4 of the Administrative Code 500.654(6), Rule 14 of the Administrative Code 500.664(3)(a), and Rule 14 of the Administrative Code 500.664(3)(b).
13. Respondents violated the Order to Cease and Desist by conducting unlicensed activity and sending a lead generating device to a Michigan resident that does not comply with the Code and applicable rules.
14. Pursuant to the Code, the Respondents' lead generating device and ongoing business activities as an insurer, solicitor or insurance agent constitutes a negotiation, offer to sell, or solicitation of insurance without first obtaining authority, certification or licensure, and is a violation of the Code.
15. Respondents' lead generating device is a violation of the Code where it does not make the appropriate disclosure that the lead generating device was a request for information that is insurance related and if the recipient responded he/she may be contacted in an attempt to sell him/her insurance.
16. Respondents' lead generating device is a violation of the Code where it uses the colors of red, white and blue and makes the device appear as if it is government issued and consumers may believe it is government issued or endorsed by the government, when it is not.