

**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. 20-16243

Agency No. 20-055-L

Petitioner,

v

Evan Christopher Nicoll

System ID No. 0355032

Respondent.

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**Issued and entered
on January 22, 2021
by Randall S. Gregg
Senior Deputy Director**

INTERIM ORDER

I. Background

Evan Christopher Nicoll (Respondent) is a licensed resident insurance producer. The Department of Insurance and Financial Services (DIFS) received information that Respondent failed to respond to a letter of inquiry from DIFS regarding a June 6, 2020, consumer complaint filed against Respondent. After an investigation and verification of the information, on April 23, 2020, 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(2) and 1244(1)(a-d) of the Michigan Insurance Code (Code), MCL 500.1239(2) and 500.1244(1)(a-d). Respondent failed to reply to the NOSC.

On November 6, 2020, DIFS issued an Administrative Complaint, Order for Hearing, and Notice of 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 take the required action.

II. Findings of Fact and Conclusions of Law

1. Respondent, is a licensed resident insurance producer, authorized to transact the business of insurance in Michigan, with qualifications in accident and health, casualty, life, and property, and his license is currently active.

2. On June 9, 2020, DIFS staff sent a letter of inquiry to Respondent at his email address of record, which he is required per the Michigan Insurance Code (Code) to keep current. The letter requested a written response to a June 6, 2020, consumer complaint filed against Respondent. No response was received.
3. On July 1, 2020, DIFS staff sent a Notice of Opportunity to Show Compliance (NOSC) to Respondent at his email address of record. No response was received.
4. On July 24, 2020, DIFS staff sent the letter of inquiry and a copy of the NOSC to Respondent at a second email address. No response was received.
5. On July 28, 2020, DIFS staff unsuccessfully attempted to contact Respondent at his telephone numbers of record.
6. On August 11, 2020, the NOSC was mailed to Respondent at his mailing address of record, which he is required, per the Code, to keep current with DIFS. No response was received, and the mail was not returned by the United States Postal Service.
7. As a licensee, Respondent knew or had reason to know that Section 249(a) of the Code, MCL 500.249(a), states that for the purposes of ascertaining compliance with the provisions of the insurance laws of the state the Director may initiate proceedings to examine the accounts, records, documents and transactions pertaining to any insurance agent, surplus line agent, general agent, adjuster, public adjuster or counselor.
8. As a licensee, Respondent knew or had reason to know that Section 1239(2)(e) of the Code, MCL 500.1239(2)(e), states that the director may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions for violating any insurance laws or violating any regulation, subpoena, or order of the Director.
9. As a licensee, Respondent knew or had reason to know that Section 1244(1)(a-c) of the Code, MCL 500.1244(1)(a-c), provides that the Director may order the payment of a civil fine of up to \$1,000.00 for each violation and up to \$5,000.00 for each violation if the Director finds that the person knew or reasonably should have known that he or she was in violation of the Code. The Director may also require the person to refund any overcharges and pay restitution to cover losses, damages, or other harm they caused by violating the Code. Pursuant to Section 1244(1)(d) of the Code, MCL 500.1244(1)(d), the Director may order suspension or revocation of licensure.
10. Respondent has provided justification for sanctions, pursuant to Sections 1239(2)(e) and 1244(1) of the Code, by failing to respond to letters of inquiry from DIFS staff as required pursuant to Section 249(a), MCL 500.249(a).
11. On November 6, 2020, DIFS issued an Administrative Complaint, Order for Hearing and Notice of Hearing, which was served upon Respondent at the address he is required to maintain with DIFS.
12. On November 30, 2020, Respondent contacted DIFS staff by telephone and stated that he had just received the Administrative Complaint. He stated that he no longer needed his license and would like

to voluntarily surrender it. DIFS staff advised him that he must immediately respond in writing to the AC and initial DIFS inquiry. Respondent stated he would email his response to DIFS staff by the evening of November 30, 2020. To date, no written response has been received from Respondent.

13. 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. Respondent failed to take the required action.
14. Having made reasonable efforts to serve Respondent and having complied with MCL 500.1238(2), Petitioner now seeks sanctions up to and including REVOCATION of licensure.
15. Respondent is in default and the Petitioner is entitled to have all allegations accepted as true.
16. On December 16, 2020, DIFS staff filed a Motion for Order. Respondent did not file a reply to the motion.
17. DIFS staff has made reasonable efforts to serve Respondent and have complied with MCL 500.1238(2).
18. Respondent has received notice and has been given an opportunity to respond and appear and has not responded nor appeared.

III. Order

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

1. Respondent is in Default in this matter and all allegations contained in the Administrative Complaint are accepted as true in all respects.
2. Respondent shall **CEASE** and **DESIST** from violating the Code.
3. Respondent's license (System ID No. 0355032) is **SUSPENDED** commencing the day immediately following the issuance of this Order. Respondent's license shall only be reinstated if the conditions in Paragraphs 2, 4 and 5 of Section III. of this Order have been met.
4. Respondent shall pay to the State of Michigan, through DIFS, administrative and civil fines in the amount of \$1,000.00. This fine shall be paid by the due date indicated on the DIFS invoice.
5. Respondent shall respond to the original June 9, 2020, letter of inquiry within 30 days from the date this Order is served.

6. The Director retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as shall be deemed just, necessary, and appropriate in accordance with the Code. If the Respondent fails to satisfy the conditions set forth in Paragraphs 3 and 4 within the time required, a Final Decision shall be entered in this matter revoking the Respondent's license.

Anita G. Fox, Director
For the Director:

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

Randall S. Gregg
Senior Deputy Director