

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Kevin T. Donnellan
System ID No. 0063497

Enforcement Case No. 20-15972

Respondent.

Issued and entered
on March 2nd, 2020
by Randall S. Gregg
Senior Deputy Director

ORDER OF SUMMARY SUSPENSION, NOTICE OF OPPORTUNITY FOR HEARING, AND NOTICE OF INTENT TO REVOKE

Pursuant to the Section 1242 of the Michigan Insurance Code (Code), MCL 500.1242, and Section 92 of the Michigan Administrative Procedures Act (APA), MCL 24.292, and based upon the attached FINDINGS, including that protection of the public health, safety and welfare requires emergency action,

IT IS THEREFORE ORDERED that:

1. The insurance resident producer license and authority of Respondent are **SUMMARILY SUSPENDED**.
2. A copy of this Order shall be immediately served upon Respondent. This order shall be effective upon the date of service.
3. If requested by Respondent, a hearing on this matter shall be held within a reasonable time, but not later than 20 calendar days after service of this Order, unless Respondent requests a later date. The hearing shall address the following issues:
 - a. Whether the suspension should be continued or withdrawn.
 - b. Whether Respondent's license should be revoked.
4. If a hearing is requested, an administrative law judge from the Michigan Administrative Hearing System shall preside over any such hearing.

5. The Director retains jurisdiction of the matters contained within and the authority to issue such further Orders as shall be deemed just, necessary, and appropriate.



Randall S. Gregg
Senior Deputy Director

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At all relevant times, Respondent Kevin T. Donnellan was a licensed resident insurance producer with qualifications in property and casualty and was authorized to transact the business of insurance in Michigan.
2. Based upon the information as set forth below, protection of the public health, safety, and/or welfare requires emergency action.
3. On November 7, 2019, Respondent was convicted in the 2nd Circuit Court of Michigan, Berrien County, of one felony count of Fraud-Common Law and two felony counts of Insurance-Fraudulent Acts, under MCL 500.4511. The conduct that formed the basis for these convictions occurred while Respondent was acting in his capacity as an insurance producer.
4. Over several years, Respondent had taken money from customers and failed to remit the payments to insurance carriers. Respondent used the money for his own purposes and the customers were unknowingly left without effective insurance. In many instances, Respondent altered the addresses or contact information for customers so they were never notified of the non-payment cancellations.
5. When collecting cash payments from customers, Respondent would submit the policies utilizing automatic debit arrangements from a fictitious bank account. In these instances, the policy would not immediately lapse for non-payment, but rather after the carrier made an unsuccessful attempt to debit the fictitious bank accounts.
6. In 2019 alone, every policy submitted by Respondent was cancelled for non-payment of premiums. Some customers did not discover they were without insurance until they were involved in traffic accidents and had no insurance coverage.
7. Respondent was convicted of a Misdemeanor - Embezzlement Agent or Trustee More Than \$200 but Less Than \$1000 on June 11, 2019, in the Berrien County District Court, stemming from a fraudulent transaction with one customer. After this conviction, Respondent continued to collect money from customers and failed to remit the payments to insurance carriers.
8. To date, Respondent has failed to report any of his criminal convictions to DIFS.
9. As a licensee, Respondent knew or had reason to know that Section 1207(1) of the Code, MCL 500.1207(1), requires that an agent shall be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money

which he or she holds in a fiduciary capacity to the persons to whom they are owed is *prima facie* evidence of violation of the agent's fiduciary responsibility.

10. Respondent violated Section 1207 of the Code by failing to remit premiums to carriers and using customer premium payments for Respondent's own purpose.
11. As a licensee, Respondent knew or had reason to know that Section 1247(2) of the Code, MCL 500.1247(2), requires a licensee to report and provide DIFS with copies of criminal actions against a licensee within 30 days of the pretrial date.
12. Respondent violated Section 1247(2) of the Code by failing to notify DIFS of any of his criminal charges and convictions, or failing to provide copies of criminal actions against him.
13. As a licensee, Respondent knew or had reason to know that Sections 4503(a) and (b) of the Code, MCL 500.4503(a) and (b), prohibit licensees from knowingly preparing or presenting written or oral statements containing false information concerning any fact or thing material to the application for insurance with the intent to defraud, injure, or deceive.
14. Respondent violated Sections 4503(a) and (b) of the Code by preparing and submitting applications for insurance with full knowledge that the payment information contained in the application was fictitious, with the intent to deceive insurance carriers as to the authenticity of the application and payment information. Respondent was convicted of violating Section 4503 on November 7, 2019.
15. 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 of this state or another. As set forth above, Respondent violated Sections 1207(1), 1247(2), and 4503(a) and (b) of the Code, MCL 500.1207(1), 500.1247(2), and 500.4503(a) and (b) and, thus, provided justification for sanctions, pursuant to Section 1239(1)(b) of the Code, MCL 500.1239(1)(b).
16. As a licensee, Respondent knew or had reason to know that Section 1239(1)(d) of the Code, MCL 500.1239(1)(d), provides that he may be sanctioned for improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business. By failing to remit premiums to carriers and using customer premium payments for Respondent's own purpose, Respondent improperly withheld money in the course of doing insurance business and, thus, provided justification for sanctions pursuant to Section 1239(1)(d) of the Code, MCL 500.1239(1)(d).
17. As a licensee, Respondent knew or had reason to know that Section 1239(1)(e) of the Code, MCL 500.1239(1)(e), provides that he may be sanctioned for intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance. As set forth above, Respondent misrepresented an application for insurance by submitting applications for insurance with knowingly false information as to the method of premium payment and, thus, provided justification for sanctions, pursuant to Section 1239(1)(e) of the Code, MCL 500.1239(1)(e).
18. As a licensee, Respondent knew or had reason to know that Section 1239(1)(f) of the Code, MCL 500.1239(1)(f), provides that he may be sanctioned for having been convicted of a felony. As set forth above, Respondent was convicted of Count 1 – Fraud – Common Law and Counts 8 and 9 – Insurance – Fraudulent Acts, all felonies, in the 2nd Circuit Court of Michigan, Berrien County and,

thus, provided justification for sanctions, pursuant to Section 1239(1)(f) of the Code, MCL 500.1239(1)(f).

19. As a licensee, Respondent knew or had reason to know that Section 1239(1)(g) of the Code, MCL 500.1239(1)(g), provides that he may be sanctioned for having admitted or been found to have committed any insurance unfair trade practice or fraud. As set forth above, Respondent committed insurance fraud and was convicted of such under MCL 500.4511 and, thus, provided justification for sanctions, pursuant to Section 1239(1)(g) of the Code, MCL 500.1239(1)(g).
20. As a licensee, Respondent knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), provides that he may be sanctioned for "[u]sing fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere." By submitting applications for insurance with knowingly false information, failing to remit premiums and using customer payments for Respondent's own purposes, and by pleading guilty to insurance fraud and failing to report criminal convictions to DIFS, Respondent used fraudulent and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in this state and, thus, provided justification for sanctions, pursuant to Section 1239(1)(h) of the Code, MCL 500.1239(1)(h).
21. Respondent's actions demonstrate a pattern of behavior constituting a serious threat to the public.
22. The alleged conduct of Respondent indicates that a summary suspension of licensure is appropriate and necessary in order to protect the public from further financial damage and other harm and to protect the public interest.
23. The alleged conduct of Respondent indicates that Respondent does not possess the requisite character and fitness to be engaged in the business of insurance, and further indicates that Respondent does not command the confidence of the public nor warrant the belief that Respondent will comply with the law.
24. Due process requirements of the Code and the Administrative Procedures Act require that the Respondent, subject to summary disciplinary action, be provided with an opportunity for a prompt hearing on the order for summary suspension. A summary suspension of Respondent's license is authorized by Section 92 of the Michigan Administrative Procedures Act of 1969, as amended, MCL 24.292, and Section 1242(4) of the Code, MCL 500.1242(4).