

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

**Before the Director of the Department of Insurance and Financial Services**

In the matter of:

**Jennifer Russell**  
System ID No. 0764862

**Enforcement Case No. 20-16010**  
**Agency No. 20-044-L**

Respondent.

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**Issued and entered  
on March 10, 2021  
by Randall S. Gregg  
Senior Deputy Director**

**FINAL DECISION**

**I. Background**

At all relevant times, Jennifer Russell (System ID No. 0764862) (Respondent) was an active licensed resident insurance producer with qualifications in accident and health, and life. Respondent has been an active resident producer since March 6, 2018.

On or about April 10, 2019, the Department of Insurance and Financial Services (DIFS) received a complaint alleging that Respondent, after accepting funds from a consumer, failed to place a homeowner's insurance policy and failed to provide a refund to the consumer. DIFS subsequent investigation found that Respondent violated the following provisions of the Code: MCL 500.249; MCL 500.1206(5); MCL 500.1207(1); MCL 500.1238(1); MCL 500.1239(1)(b); MCL 500.1239(1)(g); MCL 500.1239(2)(e); MCL 500.1247(2) and MCL 500.4503(g)(i).

DIFS subsequently issued a Notice of Opportunity to Show Compliance (NOSC) April 30, 2020. The NOSC was sent by first-class mail to Respondent at her address on file with DIFS. A copy was also sent to an address discovered by DIFS during the course of its investigation. Respondent's reply was due on or before May 27, 2020.

Pursuant to Executive Order 2020-21, effective March 24, 2020, Michigan residents were required to shelter in place until April 13, 2020; it was subsequently extended by several executive orders through the end of May. Executive Order 2020-42, Executive Order 2020-59, Executive Order 2020-67, Executive Order 2020-68, Executive Order 2020-69, Executive Order 2020-70, Executive Order 2020-77, Executive Order 2020-92, and Executive Order 2020-96. The shelter in place order was lifted effective June 4, 2020 by Executive Order 2020-110. In light of these Executive Orders, DIFS provided over three additional months for Respondent to receive and respond to the NOSC. Notwithstanding this additional time, no response was received by DIFS.

On September 21, 2020, DIFS issued an Administrative Complaint, Statement of Factual Allegations, Order for Hearing and Notice of Hearing, which was served on Respondent at the address she is required to maintain with DIFS. A copy was also sent to an address discovered by DIFS during the course of its investigation. 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. DIFS did not receive a reply to the Administrative Complaint.

Petitioner moved for an Interim Order Following Failure to Respond, serving Respondent via first class mail to Respondent at her address of record on file with DIFS. A copy was also sent to an address discovered by DIFS during the course of its investigation. Because DIFS received no response to the Motion for Interim Order Following Failure to Respond, the Interim Order entered on December 21, 2020, suspended Respondent's license, requested a response to DIFS' inquiries, and imposed a fine of \$500.00.

The Order informed Respondent that the Director would enter a Final Decision revoking her insurance producer license if she failed to pay the \$500.00 fine and respond to DIFS inquiries by January 20, 2021. On December 23, 2020, DIFS served Respondent with the Order Following Failure to Respond via first class mail to Respondent at her addresses of record on file with DIFS. A copy was also sent to an address discovered by DIFS during the course of its investigation. Respondent failed to pay the \$500.00 fine or respond to the DIFS' inquiries

On February 16, 2021, DIFS 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. On or about April 10, 2019, the Department of Insurance and Financial Services (DIFS) received a complaint alleging that Respondent, after accepting funds from a consumer, failed to place a homeowner's insurance policy and failed to provide a refund to the consumer.
2. DIFS subsequent investigation found that Respondent violated the following provisions of the Code: MCL 500.249; MCL 500.1206(5); MCL 500.1207(1); MCL 500.1238(1); MCL 500.1239(1)(b); MCL 500.1239(1)(g); MCL 500.1239(2)(e); MCL 500.1247(2) and MCL 500.4503(g)(i).
3. During the course of its investigation, DIFS investigator attempted to communicate with Respondent on the following occasions:
  - a. On May 2, 2019, DIFS sent a letter to Respondent's mailing address on record with DIFS, via certified mail with return receipt requested and via standard U.S. mail in a plain white envelope, with a requested response date of May 8, 2019.
    - i. The United States Postal Service (USPS) returned the letter sent certified mail, with a yellow sticker, dated May 7, 2019, stating the following:

Return to Sender  
Moved left no forwarding address  
Unable to forward.

- ii. On May 29, the USPS returned the letter sent by standard mail, with a yellow sticker, dated May 17, 2019, stating the following:

Return to Sender  
Moved left no forwarding address  
Unable to forward.

- b. On May 17, 2019, DIFS mailed another letter certified mail with return receipt requested to Respondent at a new address obtained during the course of its investigation.
    - i. The USPS returned the letter sent to the new address, with a yellow sticker dated June 14, 2019, stating the following:

Return to Sender  
Not deliverable as addressed  
Unable to forward.
  - c. On June 19, 2019, DIFS sent a copy of this letter in a plain white envelope to the address obtained from law enforcement. This letter has not been returned to DIFS.
  - d. On August 29, 2019, DIFS sent eight e-mails to e-mail addresses found via a Lexis Nexis report to be associated with or belonging to Respondent.
    - i. DIFS received a return message that the e-mails were undeliverable for six of the eight e-mail addresses.
4. On two occasions DIFS investigator attempted to contact Respondent using the telephone number on file with DIFS. On both occasions, the person who answered the phone indicated that the number had not belonged to Respondent for at least a year.
  5. As of the present date, DIFS staff has not received a response from Respondent to any of these attempted contacts.
  6. On April 30, 2020, an NOSC was mailed by first class mail to Respondent at her address on file with DIFS. A copy was also sent to an address discovered by DIFS during the course of its investigation.
  7. Respondent's reply was due on or before May 27, 2020.
  8. Executive Order 2020-21, effective March 24, 2020, required Michigan residents to shelter in place until April 13, 2020; it was subsequently extended by several executive orders through the end of May. Executive Order 2020-42, Executive Order 2020-59, Executive Order 2020-67, Executive

Order 2020-68, Executive Order 2020-69, Executive Order 2020-70, Executive Order 2020-77, Executive Order 2020-92, and Executive Order 2020-96.

9. The shelter in place order was lifted effective June 4, 2020 by Executive Order 2020-110. In light of these Executive Orders, DIFS provided over three additional months for Respondent to receive and respond to the NOSC. Notwithstanding this additional time, no response was received by DIFS.
10. Both envelopes containing the NOSCs were returned by the USPS as follows:
  - a. The NOSC sent to Respondent's address on file with DIFS stated "Not Deliverable as Addressed, Unable to Forward."
  - b. The NOSC sent to the address discovered during the course of DIFS' investigation stated "Moved Left No Address, Unable to Forward."
11. On September 21, 2020 DIFS served Respondent with an Administrative Complaint, Statement of Factual Allegations, Order for Hearing and Notice of Hearing via first class mail to Respondent at her address on file with DIFS. A copy was also sent to an address discovered by DIFS during the course of its investigation.
12. Respondent's reply was due on or before October 15, 2020.
13. Respondent did not respond in any way to the Administrative Complaint.
14. Both envelopes containing the Administrative Complaints were returned by the USPS as follows:
  - a. The Administrative Complaint sent to Respondent's address on file with DIFS stated "Not Deliverable as Addressed, Unable to Forward."
  - b. The Administrative Complaint sent to the address discovered during the course of DIFS' investigation stated "Moved Left No Address, Unable to Forward."
15. In paragraph 3 of the Order for Hearing, Respondent was ordered to do one of the following within 21 days of the date of the Order: 1) agree to and sign a settlement with DIFS; 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 to postpone the hearing giving good reasons why a postponement is necessary. Paragraph 5 states that failure to make the required filing shall constitute the default of Respondent in this contested case and result in the cancellation of the hearing.
16. Respondent failed to take any of the actions required by paragraph 3 of the Order. See Petitioner's Exhibit 1, Affidavit of Randie Swinson.
17. DIFS moved for an Interim Order Following Failure to Respond, serving Respondent via first class mail to Respondent at her address on file with DIFS. A copy was also sent to an address discovered by DIFS during the course of its investigation.

18. DIFS received no response to the Motion for Interim Order Following Failure to Respond.
19. On December 21, 2020, DIFS entered the Order Following Failure to Respond, serving Respondent via first class mail at her address of record on file with DIFS. Respondent was ordered to pay a \$500.00 fine and respond to DIFS inquiries by January 20, 2021.
20. The Order advised Respondent that the Director would enter a Final Decision revoking her insurance producer license if she failed to pay the \$500.00 fine and respond to DIFS inquiries by January 20, 2021.
21. Respondent failed to pay the \$500.00 fine or respond to DIFS' inquiries.
22. As a licensee, Respondent knew or had reason to know that MCL 500.249 requires that licensees respond to inquiries from DIFS staff.
23. Respondent violated MCL 500.249 by failing to respond to DIFS' multiple e-mail, phone, and mail inquiries.
24. As a licensee, Respondent knew or had reason to know that MCL 500.1206(5) requires her to inform DIFS of any change of address within 30 days of the change.
25. Respondent violated MCL 500.1206(5) because she failed to report to DIFS that her address had changed, as indicated by the mail returned by the USPS.
26. As a licensee, Respondent knew or had reason to know that MCL 500.1207(1) requires her to act as a fiduciary for all money received or held in her capacity as an agent, timely remitting any such money to the rightful owner.
27. Respondent violated MCL 500.1207(1) by receiving money in a fiduciary capacity from a consumer but failing to turn it over to an agency or insurer for its intended purpose as payment for a homeowner's insurance policy.
28. As a licensee, Respondent knew or had reason to know that MCL 500.1238(1) requires her to notify DIFS of any change in her mailing or e-mail address within 30 days after the change.
29. Respondent violated MCL 500.1238(1) by failing to notify DIFS of the changes to her mailing and e-mail addresses, as indicated by the mail returned by the USPS and her failure to respond to DIFS investigator's e-mails.
30. As a licensee, Respondent knew or had reason to know that MCL 500.1247(2) requires her to notify DIFS of any criminal prosecution in any jurisdiction within 30 days of the initial pretrial hearing.
31. Respondent violated MCL 500.1247(2) by failing to notify DIFS of her criminal prosecution within 30 days of the date of her pretrial hearing.

32. As a licensee, Respondent knew or had reason to know that MCL 500.4503(g)(i) prohibits fraudulent acts, including the diversion or attempted diversion of funds intended for an insurer or other persons in connection with the transaction of insurance.
33. Respondent committed fraudulent insurance acts, violating MCL 500.4503(g)(i), when she diverted and/or attempted to divert funds from a consumer that was intended as payment for a homeowner's insurance policy.
34. As a licensee, Respondent knew or had reason to know that MCL 500.1239(1)(b) provides that she may be sanctioned for improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.
35. As set forth above, Respondent improperly withheld money in the course of doing insurance business by accepting money on behalf of and failing to remit it to an agency or insurer for its intended purpose, providing justification for sanctions pursuant to MCL 500.1239(1)(b).
36. As a licensee, Respondent knew or had reason to know that MCL 500.1239(1)(g) provides that she 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."
37. By accepting money on behalf of and failing to remit it to an agency or insurer for its intended purpose, Respondent demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state, thereby providing justification for sanctions under MCL 500.1239(1)(g).
38. As a licensee, Respondent knew or had reason to know that MCL 500.1239(2)(e) provides that she may be sanctioned for violating any insurance laws, regulations, or administrative rules.
39. As set forth above, by violating MCL 500.249, MCL 500.1206(5), MCL 500.1207(1), MCL 500.1238(1), MCL 500.1247(2) and MCL 500.4503(g)(i), Respondent has provided justification for sanctions under MCL 500.1239(2)(e).
40. Based upon the actions listed above, Respondent has committed acts that provide justification for the Director to order that she cease and desist her unlawful actions and impose sanctions pursuant to MCL 500.150, MCL 500.1239(1)(b), (g) and (2)(e), and MCL 500.1244(1)(a)-(d). Potential sanctions for Respondent's unlawful conduct may include 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 sanctions, including limitation, revocation, or suspension of Respondent's license.
41. DIFS staff has made reasonable efforts to serve Respondent and has complied with MCL 500.1238(2).
42. Respondent was sent notice and has been given an opportunity to respond and appear and she has not responded or appeared.

43. 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.
1. Respondent shall immediately **CEASE** and **DESIST** from engaging in the business of insurance.
2. Pursuant to MCL 500.1239(1)(b), (g) and (2)(e), and MCL 500.1244(1)(d), Respondent's resident insurance producer license (System ID No. 0764862) is **REVOKED**.

Anita G. Fox, Director  
For the Director:



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Randall S. Gregg, Senior Deputy Director