

**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. 16-13046**

**Agency No. 16-1319-L**

Petitioner,

v

**SMS LLC DBA SURPLUS MARKET SOLUTIONS LLC**

System ID No. 0106506

Respondent.

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**Issued and entered  
on July 28, 2017  
by **Randall S. Gregg**  
Deputy Director**

**FINAL DECISION**

**I. Background**

SMS LLC DBA SURPLUS MARKET SOLUTIONS LLC (Respondent) is a licensed business entity insurance producer. The Department of Insurance and Financial Services (DIFS) received information that Respondent failed to register an individual licensed producer to serve as the Designated Responsible Licensed Producer (DRLP) for the agency. After investigation and verification of the information, on September 24, 2013, DIFS issued a Notice of Opportunity to Show Compliance (NOSC) informing Respondent that failure to designate a new DRLP or to show continuous compliance with the DRLP requirement would result in further compliance action, including revocation of the agency license. Respondent failed to reply to the NOSC.

On February 22, 2016, DIFS issued an Administrative Complaint and Order for Hearing which was served upon Respondent at the address it 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 and sign a settlement with DIFS, (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 any of these actions.

On June 26, 2017, 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. Pursuant to Executive Order 2013-1, the Director has assumed the statutory authority and responsibility, granted to the Commissioner by the Michigan Insurance Code (Code), to exercise general supervision and control over persons transacting the business of insurance in Michigan.
2. At all relevant times, Respondent was a licensed business entity insurance producer.
3. As a prerequisite to licensure, every business entity agency must register with DIFS an individual licensed producer who will serve as the DRLP for the agency. MCL 500.1205(2)(b). The purpose of a DRLP is to ensure that each agency has a knowledgeable person designated as responsible for agency compliance with statutory and administrative requirements. Such a designation is an indication of both compliance and trustworthiness. Without a knowledgeable person designated as responsible for compliance under the Code, the trustworthiness of the agency is in question.
4. Respondent does not have a valid DRLP registered with DIFS.
5. Failure to continue to comply with the minimum requirements for licensure, even after licensure, constitutes a violation of the Code. See, e.g., Insurance Bureau Final Decision in *In re: Marvin John Zmudczynski, Edward Hartka, and Town Center Underwriters, Inc.* (July 15, 1987).
6. As a licensee, Respondent knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), states:
  - (1) In addition to any other powers under this act, the commissioner 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, and the commissioner shall refuse to issue a license under section 1205 or 1206a, for any 1 or more of the following causes:

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  - (h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.
7. Respondent has provided justification for sanctions, pursuant to Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), by demonstrating untrustworthiness by failing to register with DIFS an individual licensed producer who will serve as the DRLP for the agency.
8. Section 1244(1)(d) of the Code, MCL 500.1244(1)(d), provides that if the Director finds that a person has violated Chapter 12, after an opportunity for a hearing, the Director shall reduce the findings and decision to writing and shall issue and cause to be served upon the person charged with the violation a copy of the findings and an order requiring the person to cease and desist from the violation. In addition, the Director may order, among other things, the suspension or revocation of the person's license.
9. Respondent has provided justification for sanctions pursuant to Section 1244(1)(d) of the Code, MCL 500.1244(1)(d), by violating Section 1205(2)(b) of the Code, MCL 500.1205(2)(b).

10. On or about September 24, 2013, the DIFS Office of Licensing and Market Conduct sent an NOSC to Respondent, addressed to its owner/officer of record at the address it is required to maintain on file with DIFS.
11. Respondent was given 14 days to respond to the NOSC. Respondent did not respond.
12. On February 22, 2016, true copies of an Administrative Complaint, Order for Hearing and Notice of Hearing were mailed by first class mail to Respondent at its address of record on file with DIFS. No response was received.
13. DIFS Staff have made reasonable efforts to serve Respondent and has complied with MCL 500.1238(2). Respondent has received notice and has been given an opportunity to respond and appear, yet has not responded nor appeared.
14. Respondent is in default and Petitioner is entitled to have all allegations accepted as true.
15. Pursuant to Sections 1239(1)(h) and 1244(1)(d), the Director may revoke the Respondent's license on the basis of the uncontested violations of Chapter 12 set forth above.

### III. Order

Based upon 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 500.1205(2)(b), MCL 500.1239(1)(h), and MCL 500.1244(1)(d), Respondent's insurance producer license (System ID No. 0106506) is **REVOKED**.

Patrick M. McPharlin, Director  
For the Director:

  
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Randall S. Gregg, Deputy Director