

**STATE OF MICHIGAN**  
**DEPARTMENT OF ENERGY, LABOR AND ECONOMIC GROWTH**  
**OFFICE OF FINANCIAL AND INSURANCE REGULATION**  
**Before the Commissioner of Financial and Insurance Regulation**

**Office of Financial and Insurance Regulation,  
Petitioner**

v

**Rosa L. Douglas,  
Respondent**

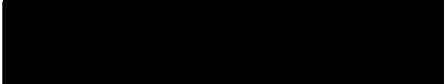
**Enforcement Case No. 08-5697**

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**For the Petitioner:**

**Marlon Roberts  
Office of Financial and Insurance Regulation  
P.O. Box 30220  
Lansing, MI 48909-7720**

**For the Respondent:**

**Rosa L. Douglas**  


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**Issued and entered  
this 8<sup>th</sup> day of September 2010  
by Ken Ross  
Commissioner**

**FINAL DECISION**

**I. Background**

On April 1, 2010, Chief Deputy Commissioner Stephen R. Hilker issued an Administrative Complaint, Order for Hearing, and Notice of Hearing in this case which was sent to Respondent at the address above. The Administrative Complaint set forth detailed allegations that Respondent had violated section 1239(1)(h) of the Michigan Insurance Code, MCL 500.1239(1)(h) by attempting to persuade a policyholder of her employer to use the cash value of an insurance policy to provide Respondent with a personal loan.

A hearing was held on May 27, 2010. Respondent failed to attend the hearing and a default judgment was granted. The Administrative Law Judge issued a Proposal for Decision (PFD) dated June 16, 2010. Neither party filed exceptions. Michigan courts have long

recognized that the failure to file exceptions constitutes a waiver of any objections not raised.

*Attorney General v. Public Service Comm* 136 Mich App 52 (1984).

## **II. Findings of Fact and Conclusions of Law**

The factual findings in the PFD are in accordance with the preponderance of the evidence and the conclusions of law are supported by reasoned opinion. Those findings and conclusions are adopted. The PFD is attached and made part of this final decision. The findings and conclusions most pertinent to this Final Decision are stated below:

1. At all times pertinent to this case, Respondent was a licensed nonresident Michigan insurance producer. Respondent was appointed to represent Allstate Insurance Company and its related insurance carriers.
2. Respondent knew or should have known that using fraudulent and dishonest practices when conducting insurance business in this state or elsewhere is a violation of section 1239(1)(h), MCL 500.1239(1)(h) of the Insurance Code.
3. In March 2008, Respondent went to the home of an Allstate policyholder in order to obtain a personal loan from that individual. The individual was a friend of the Respondent but Respondent did not act as the individual's insurance agent. Respondent had examined the individual's Allstate file and used the knowledge gained to attempt to persuade the individual to take cash from an existing life insurance policy to provide Respondent with money for Respondent's personal needs.
4. Respondent's conduct is dishonest and inconsistent with the standards of section 1239(1)(h) of the Insurance Code.

Counsel for the Petitioner, at hearing, requested dismissal of a second count stated in the Complaint which alleged that Respondent failed to report the suspension of her Indiana insurance producer license. No evidence was introduced at hearing concerning this allegation. The ALJ recommended that the count be dismissed. The Commissioner agrees that the count be dismissed.

### III. Order

1. Count II of the Complaint is dismissed.
2. Based on the conduct described above and in accordance with section 1239(1) of the Michigan Insurance Code, Respondent's insurance producer license is revoked.

A handwritten signature in black ink, appearing to read 'K. Ross', written over a horizontal line.

Ken Ross  
Commissioner

**STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES**

**In the matter of**

**Docket No. 2010-353**

**Office of Financial and  
Insurance Regulation,  
Petitioner**

**Agency No. 10-769-L**

**v**

**Rosa L. Douglas,  
Respondent**

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**Agency: Office of Financial and  
Insurance Regulation**

**Case Type: Sanction  
Revocation**

**Issued and entered  
this 16<sup>th</sup> day of June, 2010  
by C. David Jones  
Administrative Law Judge**

**PROPOSAL FOR DECISION**

On April 1, 2010 Stephen R. Hilker, Chief Deputy Commissioner, issued a Complaint, with a Statement of Factual Allegations, against Respondent. Also on April 1, 2010 Mr. Hilker issued an Order Referring Complaint for Hearing and Order to Respond.

On April 14, 2010 a Notice of Hearing was mailed by certified mail, return receipt, to the parties scheduling the hearing to commence on May 27, 2010, at 9:00 a.m., at 611 W. Ottawa St., Lansing, Michigan. Ms. Douglas' Notice was mailed to her last known address. The returned receipt, bearing the apparent signature of Rosa L. Douglas, is in the file. No adjournment of hearing was requested or granted.

On May 27, 2010 the hearing commenced at 9:30 a.m. Respondent did not appear in person or by attorney. Petitioner was represented by Marlon Roberts, attorney.

A default was granted at Petitioner's request. Petitioner presented a prima facie case. Petitioner also requested that Count II, alleging violation of MCL 500.1247(1) be stricken.

The following exhibit was admitted into evidence:

Petitioner's Exhibit 1: April 24, 2008 Letter from Allstate with Attachments.

### **ISSUES AND APPLICABLE LAW**

The applicable law in this case is the Insurance Code of 1956, 1956 PA 218, as amended, MCL 500.100 *et seq.*

The issue is as follows:

Did Respondent violate MCL 500.1239(1)(h)?

### **FINDINGS OF FACT**

1. At all pertinent times involved herein, Rosa L. Douglas ("Respondent") was a licensed Non-Resident Producer authorized to conduct business on behalf of an insured in the State of Michigan under a policy of insurance.

2. As a licensed insurance producer, Respondent knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), provides, "The commissioner may place on probation, suspend, revoke . . . an insurance producer's license or may levy a civil fine under section 1244 or any combination of actions for any 1 or more of the following causes:

(h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere."

3. Respondent has failed to uphold the standards as described below.

COUNT I

4. On or about April 24, 2008, Allstate Indemnity Company, Allstate Insurance Company, and Allstate Property & Casualty Insurance Company terminated Respondent's nonresident producer's license for cause.

5. Allstate Indemnity Company, Allstate Insurance Company, and Allstate Property & Casualty Insurance Company alleged that Respondent engaged in dishonest and coercive tactics. Specifically, Respondent was accused of visiting a customer's home for the sole purpose of obtaining a personal loan from said customer. Respondent had reviewed the customer's life policy prior to showing up at the customer's home in order to determine the amount that could be withdrawn from the customer's life policy. Respondent requested said customer to take a partial surrender from his or her life insurance policy so that the Respondent could obtain a loan from the customer. Respondent, while an employee of Allstate, does not work directly with customers on matters relating to their life insurance policies. Respondent accessed the customer's personal information for the sole purpose of determining whether the customer would be able to make her a loan.

6. Based on the foregoing conduct, Respondent has violated Section 1239(1)(h) of the Code. Respondent is therefore subject to fines, suspension, and/or license revocation pursuant to Section 1244 of the Code.

**CONCLUSIONS OF LAW**

A. Default

In reference to Respondent's failure to appear at hearing, the following law is relevant:

MCL 24.272(1) If a party fails to appear in a contested case after proper service of notice, the agency, if no adjournment is granted, may proceed with the hearing and make its decision in the absence of the party.

MCL 24.278(2) Except as otherwise provided by law, disposition may be made of a contested case by stipulation, agreed settlement, consent order, waiver, default, or other method agreed upon by the parties.

1979 AACRS, R 500.2127(2) The party having the burden of proof shall first present the evidence in support of that party's case. The presiding officer shall allow rebuttal and surrebuttal testimony.

Respondent failed to appear at hearing after proper service of notice. No adjournment was granted. Therefore, we proceeded with the hearing. Petitioner had the burden of proof, and presented an unrebutted prima facie case. For a hearing under the Insurance Code, there is no authority for considering a Respondent's failure to appear at hearing as an admission of the factual and legal allegations.

B. Violation of MCL 500.1239(1)(h)

Petitioner accused Respondent of violating the following provision, thereby making her subject to license revocation:

(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:

\* \* \*

(h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

MCL 500.1239(1)(h).

Evidence on record establishes that Respondent violated MCL 500.1239(1)(h), and therefore is subject to license revocation.

**PROPOSED DECISION**

Based on the above Findings of Fact and Conclusions of Law, I recommend the following decision:

1. Respondent violated MCL 500.1239(1)(h);
2. Respondent's nonresident producer's license should be revoked;
3. Count II, concerning the alleged violation of MCL 500.1247(1)

should be dismissed.

**EXCEPTIONS**

If a party chooses to file Exceptions to the Proposal for Decision, the Exceptions must be filed within fifteen (15) days after the Proposal for Decision is issued and entered. If an opposing party chooses to file a Response to the Exceptions, it must be filed within five (5) days after the Exceptions are filed. All Exceptions and Responses to Exceptions must be filed with the Bureau of Hearings, Department of Labor and Economic Growth, Ottawa State Office Building, 611 West Ottawa, Second Floor, P. O. Box 30695, Lansing, Michigan 48909, and with the opposing party.



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**C. David Jones**  
**Administrative Law Judge**