

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

In the matter of:

Office of Financial and Insurance Regulation  
Petitioner

v

Stephen Yoder  
Respondent

Enforcement Case No. 09-7463  
Agency No. 09-075-L

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For the Petitioner:

Elizabeth V. Bolden  
Office of Financial and Insurance Regulation  
P.O. Box 30220  
Lansing, MI 48909-7720

For the Respondent:

Stephen Yoder  


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Issued and entered  
this 13<sup>th</sup> day of January 2010  
by Ken Ross  
Commissioner

FINAL DECISION

I  
BACKGROUND

On October 28, 2009, Chief Deputy Commissioner Stephen R. Hilker issued an Administrative Complaint, Statement of Factual Allegations, Notice of Hearing, and Order for Hearing in this case. The Administrative Complaint and Statement of Factual Allegations set forth detailed allegations that Respondent had violated provisions of the Michigan Insurance Code (MCL 500.100, *et seq.*). The Order for Hearing required Respondent to take one of the following actions within 21 days: agree to a resolution of the case, file an answer to the

allegations stated in the complaint accompanied by a statement that Respondent plans to attend the hearing as scheduled, or request an adjournment. Respondent failed to take any of these actions.

On December 17, 2009, the Petitioner filed a Motion for Final Decision by Default. Respondent did not file a response to the Motion. Given Respondent's failure to comply with the Order for Hearing, Petitioner's motion is granted.

## II FINDINGS OF FACT

The following factual allegations and conclusions of law, stated in the Administrative Complaint and Statement of Factual Allegations, are adopted:

1. At all relevant times, Stephen Yoder ("Respondent") was a licensed nonresident producer pursuant to the Code with qualifications in accident, health, life, property, and casualty.
2. Respondent held an appointment with Nationwide Mutual Insurance Company ("Nationwide"). Sometime in August 2009, Nationwide cancelled Respondent's appointment for cause when it discovered that the Respondent had not remitted policy premiums as required under their contractual relationship.
3. On April 1, 2009, a policyholder remitted two checks in the amount of \$92.64 and \$134.46 made payable to "Nationwide" for payment of policy premiums for home and auto insurance. The check was endorsed "Stephen Yoder Insurance" and deposited into an account owned or controlled by Respondent. Neither the check nor funds were remitted to Nationwide. The insurer suffered a monetary loss of \$227.10.
4. On April 20, 2009, a policyholder remitted a check in the amount of \$77.00 made payable to "Nationwide" for payment of a policy premium. The check was not endorsed,

but was deposited into an account owned or controlled by Respondent. Neither the check nor funds were remitted to Nationwide. The insurer suffered a monetary loss of \$77.00.

5. On April 20, 2009, a policyholder remitted a check in the amount of \$232.83 made payable to "Nationwide" for payment of a policy premium. The check was endorsed "Stephen Yoder Insurance" and deposited into an account owned or controlled by Respondent. Neither the check nor funds were remitted to Nationwide. The insurer suffered a monetary loss of \$232.83.
6. On April 24, 2009, a policyholder remitted a check in the amount of \$256.30 made payable to "Nationwide" for payment of a policy premium. The check was endorsed "Stephen Yoder" and deposited into an account owned or controlled by Respondent. Neither the check nor funds were remitted to Nationwide. The insurer suffered a monetary loss of \$256.30.
7. On April 22, 2009, a policyholder remitted a check in the amount of \$126.49 made payable to "Nationwide" for payment of a policy premium. The check was endorsed "Stephen Yoder" and deposited into an account owned or controlled by Respondent. Neither the check nor funds were remitted to Nationwide. The insurer suffered a monetary loss of \$126.49.
8. On April 16, 2009, a policyholder remitted a check in the amount of \$619.10 made payable to "Nationwide" for payment of a policy premium. The check was endorsed "Stephen Yoder" and deposited into an account owned or controlled by Respondent. Neither the check nor funds were remitted to Nationwide. The insurer suffered a monetary loss of \$619.10.

9. On April 8, 2009, a policyholder remitted a check in the amount of \$109.04 made payable to "Nationwide" for payment of a policy premium. The check was endorsed "Stephen Yoder" and deposited into an account owned or controlled by Respondent. Neither the check nor funds were remitted to Nationwide. The insurer suffered a monetary loss of \$109.04.

### III CONCLUSIONS OF LAW

1. Respondent knew or should have known that his acceptance, commingling and use of the Nationwide's funds is regulated by section 1207(1) of the Code, MCL 500.1207(1), which provides 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.
2. Respondent knew or should have known that improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business is a violation of an agent's fiduciary responsibility is a violation of section 1239(d), MCL 500.1239(d).
3. Respondent knew or should have known that using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere is a violation of section 1239(h), MCL 500.1239(h) of the Code.

**III  
ORDER**

In accordance with sections 1239 and 1244 of the Michigan Insurance Code, it is  
ORDERED that Respondent's non-resident insurance producer license is revoked.

A handwritten signature in black ink, appearing to be 'KR', written over a horizontal line.

Ken Ross  
Commissioner