

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

**David D. Smaw,
Respondent**

Enforcement Case No. 08-5514

For the Petitioner:

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

For the Respondent:

David D. Smaw


**Issued and entered
this 8th day of September 2010
by Ken Ross
Commissioner**

FINAL DECISION

I. Background

On July 13, 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 failed to disclose the existence of three criminal convictions on his application for an insurance producer license. 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 Order with a statement that Respondent plans to attend the hearing, or request an adjournment. Respondent failed to take any of these actions.

On August 25, 2010, the Petitioner filed a Motion for Final Decision. Respondent did not respond to the Motion for Final Decision.

Given Respondent's failure to take one of the actions required by the Order for Hearing and his failure to answer the Motion for Final Decision, Petitioner's motion is granted.

II. Findings of Fact and Conclusions of Law

1. Respondent David Smaw applied for a Michigan insurance producer license in November 2007.
2. On his application, Respondent answered "No" to the following question: "Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?"
3. Respondent's answer was false because Respondent had three prior convictions: a felony conviction involving burglary in 1975, a theft conviction in 1980, and a conviction for failure to comply with a lawful police order in 1985.
4. Section 1239(1) of the Michigan Insurance Code provides:

In addition to any other powers under this act, the commissioner may place on probation, suspend, revoke, or refuse to issue 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:

(a) Providing incorrect, misleading, incomplete, or materially untrue information in the license application.

* * *

(c) Obtaining or attempting to obtain a license through misrepresentation or fraud.

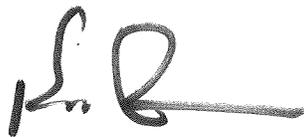
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(f) Having been convicted of a felony.

5. By making a false attestation on his application, Respondent is not qualified to hold an insurance producer license. Further, by virtue of his felony conviction, Respondent is not qualified to hold an insurance producer license.

III. Order

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



Ken Ross
Commissioner