

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
OFFICE OF FINANCIAL AND INSURANCE REGULATION  
Before the Commissioner of Financial and Insurance Regulation

In the matter of

James Karolak,  
Respondent

Case No. 92-15236-LJUA  
Docket No. 92-0905

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Issued and entered  
this 20<sup>th</sup> day of January 2012  
by R. Kevin Clinton  
Commissioner

**ORDER TO VACATE FINAL DECISION**

This matter concerns an Order of Default and Final Decision issued January 26, 1993 in the above-captioned case revoking the insurance agent license of James Karolak.

In September 2010, Mr. Karolak filed with this agency an application for a resident producer license. On the application, Mr. Karolak indicated that he had never been the subject of an administrative proceeding regarding a professional or occupational license. During the pre-licensing review, Office of Financial and Insurance Regulation (OFIR) staff discovered that his Michigan insurance agent license had been revoked in 1993 through an order of Default and Final Decision. The cause of the revocation was Mr. Karolak's failure to respond to an enforcement action of this agency alleging that he had not returned \$131.80 in unearned commission to Citizens Insurance Company.

Section 1239(1)(a) of the Insurance Code, MCL 500.1239(1)(a), requires that the Commissioner refuse to license an individual who provides "incorrect, misleading, incomplete, or materially untrue information in the license application." On January 3, 2011, OFIR licensing staff sent Mr. Karolak a letter denying the requested insurance producer license based on his failure to disclose the prior administrative action.

Mr. Karolak challenged the license denial and a hearing was held on May 24, 2011. The evidence in that hearing established that Mr. Karolak had left the insurance business and moved to another state before the enforcement action began. Mr. Karolak testified credibly that he had no knowledge of the agency's revocation of his license. In addition, at hearing it was established that the insurer in question had no interest in recovering unearned commission.

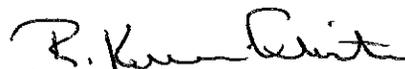
OFIR staff and Mr. Karolak have now requested that the Commissioner vacate the 1993 order and permit Mr. Karolak to proceed with his license application.

The Commissioner notes that the failure to return unearned commission is not a fiduciary violation as had been originally alleged since the funds in question were not held by Mr. Karolak for the benefit of the actual owner of the funds.

The Commissioner finds, based on the record of the May 24, 2011 hearing, that the parties' motion should be granted.

**ORDER**

It is ordered that the 1993 Order of Default and Final Decision in Case No. 92-15236-LJUA is vacated.



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R. Kevin Clinton  
Commissioner