

**STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
OFFICE OF FINANCIAL AND INSURANCE REGULATION**

Before the Commissioner of the Office of Financial and Insurance Regulation

In the Matter of:

**Erickson & Associates, Inc.,**  
Agency ID # 40046

**Enforcement Case No. 11-11376**

**Edward D. Erickson**  
System ID # 232630

Respondents.

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Issued and Entered,  
This 23<sup>rd</sup> day of November, 2011,  
By R. Kevin Clinton,  
Commissioner

**ORDER FOR SUMMARY SUSPENSION, ORDER TO CEASE AND DESIST,  
and  
NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING**

1. Erickson & Associates, Inc., ("Respondent E & A, Inc.") is an active Licensed Resident agency (Agency # 40046) with qualifications in Accident and Health, Casualty, Life, Property, and Variable Annuities and is authorized to transact the business of insurance in Michigan.
2. Edward D. Erickson ("Respondent Erickson") is an active Licensed Resident Producer (System ID # 232630) with qualifications in Accident and Health, Casualty, Life, Multiple Lines, Property, and Variable Annuities, and is authorized to transact the business of insurance in Michigan. Respondent Erickson is also the Designated Responsible Licensed Producer (DRLP) for E & A, Inc.
3. The Commissioner of the Office of Financial and Insurance Regulation (OFIR) is statutorily charged with the authority and responsibility to exercise general supervision and control over

persons transacting the business of insurance in Michigan pursuant to the Insurance Code of 1956 ("Code"), MCL 500.100 *et seq.*

4. Section 1205(2)(b) of the Code provides, in pertinent part, that a DRLP is "responsible for the business entity's compliance with this state's insurance laws, rules, and regulations." MCL 500.1205(2)(b).
5. Section 1207(1) of the Code provides, in pertinent part, that "[a]n agent shall be a fiduciary for all money received or held by the agent in his or her capacity as an agent."
6. Section 1239(1)(b) of the Code provides, in pertinent part, that the Commissioner may revoke licensure or take other actions for "[v]iolating any insurance laws or violating any regulation, subpoena, or order of the commissioner."
7. Section 1239(1)(d) of the Code provides, in pertinent part, that the Commissioner may revoke licensure or take other actions for "[i]mproperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business."
8. Section 1239(1)(h) of the Code provides, in pertinent part, that the Commissioner may revoke licensure or take other actions for "[u]sing fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere."
9. Section 1242(4) of the Code provides, in pertinent part, that "[w]ithout prior hearing, the Commissioner may order summary suspension of a license if he or she finds that protection of the public requires emergency action and incorporates this finding in his or her order." MCL 500.1242(4).
10. On May 20, 2011, OFIR received a complaint from \_\_\_\_\_, alleging improper handling of premium payments by Bruce Erickson of Erickson Insurance Co. The Commissioner conducted a full and thorough investigation of these allegations pursuant to Section 249 of the Code, MCL 500.249(a).
11. On July 1, 2011, OFIR received a complaint from \_\_\_\_\_, alleging non-payment of premium refunds by E & A, Inc. The Commissioner conducted a full and thorough investigation of these allegations pursuant to Section 249 of the Code, MCL 500.249(a).

12. On August 1, 2011, OFIR received a complaint from \_\_\_\_\_, alleging improper handling of premium payments by E & A, Inc. The Commissioner conducted a full and thorough investigation of these allegations pursuant to Section 249 of the Code, MCL 500.249(a).

### **APPLICABLE LAW AND PENALTIES**

Section 1205(2) of the Code, MCL 500.1205(2), provides as follows:

(2) A business entity acting as an insurance producer shall obtain an insurance producer license. A business entity applying for an insurance producer license shall file with the commissioner the uniform business entity application required by the commissioner. An application for an insurance producer license under this subsection shall not be approved unless the commissioner finds all of the following:

(a) The business entity has paid the fees under section 240(1)(d).

(b) The business entity has designated an individual licensed producer responsible for the business entity's compliance with this state's insurance laws, rules, and regulations.

(c) The business entity has not committed any act listed in section 1239(1).

Section 1207(1) of the Code, MCL 500.1207(1), provides as follows:

(1) 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. An agent shall not accept payment of a premium for a medicare supplemental policy or certificate in the form of a check or money order made payable to the agent instead of the insurer. Upon receiving payment of a premium for a medicare supplemental policy or certificate, an agent shall immediately provide a written receipt to the insured.

Section 1239(1) of the Code, MCL 500.1239(1), provides as follows:

(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:

- ...
- (b) Violating any insurance laws or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner.
- ...
- (d) Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.
- ...
- (h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

Section 1242(4) of the Code, MCL 500.1242(4), provides as follows:

(4) Without prior hearing, the commissioner may order summary suspension of a license if he or she finds that protection of the public requires emergency action and incorporates this finding in his or her order. The suspension shall be effective on the date specified in the order or upon service of a certified copy of the order on the licensee, whichever is later. If requested, the commissioner shall conduct a hearing on the suspension within a reasonable time but not later than 20 days after the effective date of the summary suspension unless the person whose license is suspended requests a later date. At the hearing, the commissioner shall determine if the suspension should be continued or if the suspension should be withdrawn, and, if proper notice is given, may determine if the license should be revoked. The commissioner shall announce his or her decision within 30 days after conclusion of the hearing. The suspension shall continue until the decision is announced.

Section 1244 of the Code, MCL 500.1244, provides as follows:

(1) If the commissioner finds that a person has violated this chapter, after an opportunity for a hearing pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the commissioner 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 commissioner may order any of the following:

(a) Payment of a civil fine of not more than \$500.00 for each violation. However, if the person knew or reasonably should have known that he or she was in violation of this chapter, the commissioner may order the payment of a civil fine of not more than \$2,500.00 for each violation. An order of the commissioner under this subsection shall not require the payment of civil fines exceeding \$25,000.00. A fine collected under this subdivision shall be turned over to the state treasurer and credited to the general fund of the state.

- (b) A refund of any overcharges.
  - (c) That restitution be made to the insured or other claimant to cover incurred losses, damages, or other harm attributable to the acts of the person found to be in violation of this chapter.
  - (d) The suspension or revocation of the person's license.
- (2) The commissioner may by order, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, an order issued under this section, if in the opinion of the commissioner conditions of fact or of law have changed to require that action, or if the public interest requires that action.
- (3) If a person knowingly violates a cease and desist order under this chapter and has been given notice and an opportunity for a hearing held pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, the commissioner may order a civil fine of not more than \$10,000.00 for each violation, or a suspension or revocation of the person's license, or both. An order issued by the commissioner pursuant to this subsection shall not require the payment of civil fines exceeding \$50,000.00. A fine collected under this subsection shall be turned over to the state treasurer and credited to the general fund of the state.
- (4) The commissioner may apply to the circuit court of Ingham county for an order of the court enjoining a violation of this chapter.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

13. On July 20, 2010, OFIR revoked the insurance producer licenses for Bruce Erickson and Erickson Insurance Co., pursuant to a Consent Order and Stipulation (Enforcement Case No. 09-7513).
14. Both Bruce Erickson and Respondent Erickson were listed as DRLPs for Erickson Insurance Co.
15. Both Bruce Erickson and Respondent Erickson are also listed as DRLPs for Respondent E & A, Inc.
16. Erickson Insurance and Respondent E & A, Inc. shared the same business address of 210 E. H St., Iron Mountain, MI 49801.

17. On or about December 27, 2010, Bruce Erickson, despite the revocation of his licensure, received payment from \_\_\_\_\_ for a renewal of her insurance policy in the amount of \$1,984.50, in the form of a check made payable to Erickson Insurance.
18. Bruce Erickson failed to remit this premium payment to the general agent, J.M. Wilson Corp. As a result, Maxum Casualty Insurance Co. issued a notice of cancellation of insurance to \_\_\_\_\_. The notice of cancellation listed, as the producer, Respondent E & A, Inc.
19. On or about August 30, 2010, \_\_\_\_\_ purchased insurance through Respondent E & A, Inc.
20. On or about October 16, 2010, \_\_\_\_\_ endorsements were changed, and a refunded premium in the amount of \$436.00 was processed by the insurer and provided to Respondent E & A, Inc. Respondent E & A, Inc. did not deliver this refund to \_\_\_\_\_.
21. On or about December 13, 2010, \_\_\_\_\_ endorsements were changed, and a refunded premium in the amount of \$356.00 was processed by the insurer and provided to Respondent E & A, Inc. Respondent E & A, Inc. did not deliver this refund to \_\_\_\_\_.
22. On or about January 6, 2011 \_\_\_\_\_ endorsements were changed, and a refunded premium in the amount of \$324.00 was processed by the insurer and provided to Respondent E & A, Inc. Respondent E & A, Inc. did not deliver this refund to \_\_\_\_\_.
23. An OFIR investigation verified that the total refunds due to \_\_\_\_\_ from Respondent E & A, Inc. are, at minimum, \$1,116.00.
24. On or about March 11, 2011, \_\_\_\_\_ paid Respondent E & A, Inc. \$216.00 for a homeowner's insurance policy from Great Lakes Mutual Insurance Company. Respondent E & A failed to remit this insurance premium to the insurer.
25. Respondent E & A, Inc. has failed to respond to inquiries by OFIR regarding the aforementioned complaints.

26. Investigation by OFIR and the Michigan State Police reveals that Respondents no longer have a working telephone number, and that Respondent E & A, Inc.'s place of business, as listed in OFIR records, has been abandoned. However, Respondent E & A, Inc. continues to maintain a website that appears to be actively quoting new business.
27. Respondent E & A, Inc. presently acts as an insurance agency in the state of Michigan.
28. By failing to remit premium payments and failing to deliver refunds, Respondent E & A, Inc. has failed to meet its duty as a fiduciary "for all moneys received or held by the agent in his or her capacity as an agent".
29. By failing to remit premium payments, failing to deliver refunds, and failing to respond to inquiries by OFIR, Respondent E & A, Inc. has demonstrated "incompetence, untrustworthiness, or financial irresponsibility" in the conduct of business and has improperly withheld, misappropriated, or converted money received in the course of insurance business.
30. By allowing Bruce Erickson, whose licensure was revoked by order of the Commissioner, to conduct the business of insurance on behalf of Respondent E & A, Inc., Respondent E & A, Inc. has further demonstrated "incompetence, untrustworthiness, or financial irresponsibility" in the conduct of business and has violated an order of the Commissioner.
31. As the DRLP, Respondent Erickson is responsible for Respondent E & A Inc.'s activities, including its (1) demonstrations of incompetence, untrustworthiness, or financial irresponsibility in the conduct of business, (2) violation of the Commissioner's order, (3) improper withholding, misappropriation, or conversion of client funds, and (4) breach of its fiduciary duty.
32. Respondent E & A, Inc. and Respondent Erickson have given cause for discipline under the Code.
33. Respondents' actions have demonstrated a pattern of behavior that constitute a serious threat to the public.

34. The alleged conduct of Respondents, if true, indicates that a summary suspension of licensure is appropriate and necessary in order to protect the public from further financial damage and other harm, and to protect the public interest.
35. The alleged conduct of Respondents, if true, indicates that Respondents do not possess the requisite character and fitness to be engaged in the business of insurance, and further indicates that Respondents do not command the confidence of the public nor warrant the belief that Respondents will comply with the law.
36. Due process requirements of the Code and the Administrative Procedures Act require that the Respondents, subject to summary disciplinary action, be provided with an opportunity for a prompt hearing on the order for summary suspension. A summary suspension of Respondents' license is authorized by Section 92 of the Michigan Administrative Procedures Act of 1969, as amended, MCL 24.292, and Section 1242(4) of the Code, MCL 500.1242(4).

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

1. A copy of this Order shall be served upon Respondents forthwith. The Order of Summary Suspension shall be immediately effective upon service of this Order on the Respondents. Respondents' licensure to engage in the business of insurance, pursuant to the provisions of the Code, is hereby SUMMARILY SUSPENDED upon service of this Order upon Respondents. An administrative hearing on this Order for Summary Suspension shall be promptly afforded Respondents, if requested in writing within 20 days. Requests for a hearing on this matter shall be made to:

Office of Financial and Insurance Regulation  
Office of General Counsel  
Attn.: Tracy Janousek, Hearings Coordinator  
611 West Ottawa Street, Floor Three  
Lansing, Michigan 48933

2. Respondents shall immediately make available to OFIR for examination any and all books, accounts, papers, records, files, documents, safes and vaults pertaining to its activities under the Code.

3. Respondents shall immediately allow OFIR to conduct any examination or investigation of Respondents' activities under the Code as it deems necessary to protect the public interest and to assure compliance with provisions of the law.
4. Respondents shall contact forthwith Elizabeth Bolden, Enforcement Attorney, OFIR Office of General Counsel, at 611 West Ottawa Street, Floor 3, Lansing, Michigan 48933, telephone (517) 241-6610, to discuss and resolve any and all issues pertaining to transactions currently pending with Respondents under the Code.
6. Respondents and their officers, directors, employees, and agents shall immediately CEASE AND DESIST from engaging in the business of insurance which are or should be regulated under the provisions of the Code.
7. The Commissioner of the OFIR specifically retains jurisdiction of the matters contained herein to issue such further order or orders as maybe deemed just, necessary or appropriate so as to assure compliance with the law and protect the public interest.



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R. Kevin Clinton  
Commissioner