STATE OF MICHIGAN

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of Financial and Insurance Regulation

Office of Financial and Insurance Regulation,
Petitioner

v

Giles Hoagland,
Respondent

Enforcement Case No. 11-11310
Agency No. 11-051-L

For the Petitioner:

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

For the Respondent:

Giles Hoagland

Issued and entered
this 7th day of December 2011
by R. Kevin Clinton
Commissioner

FINAL DECISION

I. BACKGROUND

Respondent Giles Hoagland is a nonresident insurance producer authorized to transact the business of insurance in Michigan. In April 2011, the Office of Financial and Insurance Regulation (OFIR) received information that Respondent had engaged in conduct which violated the Michigan Insurance Code. Specifically, it was alleged that Respondent failed to remit to Hartford Life Insurance Company insurance premiums he had collected from one of his Hartford customers. OFIR investigated the complaint and initiated a compliance action.

In September 2011, OFIR issued an Administrative Complaint and Order for Hearing which was sent to Respondent. The administrative complaint set forth detailed allegations that Respondent had failed to comply with section 1207(1) and 1239(1)(d) and (h) of the Michigan Insurance Code, MCL 500.1207(1) and 500.1239(1)(d) and (h).

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 with a statement that Respondent plans to attend the hearing, or request an adjournment. Respondent failed to take any of these actions.

On November 2, 2011, OFIR staff filed a Motion for Final Decision. Respondent did not file a reply to the motion. Given Respondent's failure to answer, Petitioner's motion is granted. Based on the administrative complaint, the Commissioner makes the following findings of fact and conclusions of law.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Respondent was a producer representing Hartford Life Insurance Company. In April 2009, Respondent failed to remit premium money to Hartford which he had collected from his client, the Brotherhood of Locomotive Engineers & Trainmen Local #548. From January through September 2010 he continued to falsely bill Local 548, knowing that Hartford had already cancelled Local 548's policy for nonpayment of premium.

2. Respondent knew or reasonably should have known that section 1207(1) of the Michigan Insurance Code, MCL 500.1207(1), 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."

3. Respondent knew or reasonably should have known that section 1239(1)(d) of the Insurance Code, MCL 500.1239(1)(d), provides that "an agent is prohibited from improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business."

4. By failing to remit premium payments to Hartford, Respondent violated sections 1207(1) and 1239(1)(d) of the Insurance Code.

5. Respondent knew or reasonably should have known that section 1239(1)(h) of the Insurance Code, MCL 500.1239(1)(h), provides that an agent is prohibited from using fraudulent and dishonest practices.

6. By mailing false billing statements to Local 548, Respondent violated Section 1239(1)(h) of the Code.

7. Section 1239(1)(i) of the Insurance Code permits the revocation of an insurance producer license of an individual who has an insurance license revoked in another state.

8. On June 16, 2011, Respondent's Indiana insurance producer license was revoked.

9. Section 1244(1) of the Insurance Code allows the Commissioner to revoke the license of any insurance producer who violates any provision of chapter 12 of the Insurance Code.

10. The conduct of Respondent described above constitutes grounds to revoke the Respondent's nonresident insurance producer license.

III. ORDER

Pursuant to sections 1207(1), 1239(1), and 1244(1) of the Michigan Insurance Code, it is ordered that the insurance producer license of Respondent Giles Hoagland be revoked.

R. Kevin Clinton
Commissioner