

**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:**

**David Harrington,**  
**System ID No. 0046203**

**Enforcement Case No. 11-11378**

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**Issued and entered**  
**this 12<sup>th</sup> day of April 2012**  
**by Randall S. Gregg**  
**Deputy Commissioner**

**FINAL DECISION**

**I. BACKGROUND**

Respondent David Harrington is a licensed resident insurance producer. In November 2009, the Office of Financial and Insurance Regulation (OFIR) received information that the Respondent had failed to properly remit to insurance premiums he had collected from his clients. OFIR investigated the complaint and issued a notice of opportunity to show compliance to the Respondent stating factual allegations that the Respondent had violated sections 1207 and 1239 of the Michigan Insurance Code, MCL 500.1207 and 500.1239. Respondent failed to reply to the notice.

On January 6, 2012, OFIR issued an Administrative Complaint and Order for Hearing (Administrative Complaint) which was sent to Respondent. 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 March 6, 2012, OFIR staff filed a Motion for Final Decision. Respondent did not file a reply to the motion. Given Respondent's failure to answer, OFIR staff's motion is granted. The Administrative Complaint, being unchallenged, is accepted as true. 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. David Harrington was an agent for \_\_\_\_\_ in 2009. He left \_\_\_\_\_ employment on March 31, 2009. The insurer then audited Mr. Har-

rington's accounts and determined that he had failed to remit \$3,352.01 in premiums he had collected from \_\_\_\_\_ policyholders.

2. 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. By failing to timely turn over the premium money received and held in a fiduciary capacity, Respondent violated MCL 500.1207(1).
4. Section 1239(1) of the Insurance Code, MCL 500.1239(1), provides:

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:

\* \* \*

(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.

8. Respondent improperly withheld money received in the course of doing insurance business. Respondent's actions constituted fraudulent and dishonest practices. Further, Respondent's conduct demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in this state. Such conduct supports the revocation of the Respondent's license to conduct the business of insurance in this state.

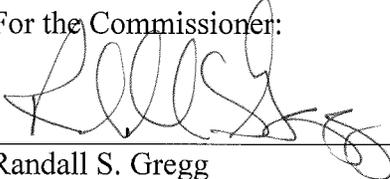
**III. ORDER**

Based on the Respondent's conduct and the applicable law cited above, it is ordered that:

1. Respondent shall cease and desist from violating sections 1207(1) and 1239(1) of the Michigan Insurance Code.
2. All insurance licenses of David Harrington are revoked.

R. Kevin Clinton  
Commissioner

For the Commissioner:

  
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Randall S. Gregg  
Deputy Commissioner