

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

Enforcement Case No. 10-7752

**Todd Miller
System ID # 0456680
Respondent**

For the Petitioner:

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

For the Respondent:

Todd Miller

**Issued and entered
this 23rd day of November 2011
by R. Kevin Clinton
Commissioner**

FINAL DECISION

I. BACKGROUND

Respondent Todd Miller is a resident insurance producer authorized to transact the business of insurance in Michigan. In March 2010, the Office of Financial and Insurance Regulation (OFIR) received information that Respondent had misappropriated insurance premiums in connection with the sale of surety bonds. OFIR investigated the complaint and initiated a compliance action. Respondent was provided an opportunity to address the allegations and resolve the compliance action informally but he did not participate in the informal compliance conference offered by OFIR staff.

On October 12, 2010, OFIR Chief Deputy Commissioner Stephen Hilker 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 sections 1207 and 1239(1)(d) and (h) of the Michigan Insurance Code, MCL 500.1207 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 October 17, 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. 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. Three provisions in chapter 12 of the Michigan Insurance Code pertain to this compliance case:
 - a. Section 1207(1) of the Michigan Insurance Code requires an agent to be "a fiduciary for all money received or held by the agent in his or her capacity as an agent." Further, "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."
 - b. Section 1239(1)(d) of the Insurance Code allows the Commissioner to revoke an insurance producer's license for "improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business."
 - c. Section 1239(1)(h) of the Insurance Code allows the Commissioner to revoke an insurance producer's license for using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.
2. Section 1244(1) of the Insurance Code allows the Commissioner to impose civil fines and license revocation for insurance producers who violate any provision of chapter 12 of the Insurance Code.
3. On February 29, 2008, Respondent contracted to work for A. T. Bails, Inc. and Pursuant to his contract, Respondent was to remit 60% of premiums collected for surety bonds (with a minimum of \$10) within 15 days of bond execution.

4. Between April 24, 2009 and September 27, 2009, Respondent wrote 59 surety bonds and collected premium totaling \$6,343.00 of which \$3,839.80 was to be remitted to A.T. Bails, Inc.
5. Respondent failed to remit any of the premium collected.
6. By failing to remit the premium payments to A. T. Bails, Inc., Respondent violated sections 1207(1) and 1239(1)(d) of the Insurance Code and engaged in fraudulent and dishonest practices prohibited by section 1239(1)(h) of the Insurance Code.

III. ORDER

Pursuant to sections 1207(1), 1239(1), and 1244(1) of the Michigan Insurance Code, it is ordered that:

1. The insurance producer license of Respondent Todd Miller is revoked.
2. Respondent shall pay a civil penalty of \$500.00.



R. Kevin Clinton
Commissioner