

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:

Office of Financial and Insurance Regulation **Enforcement Case No. 12-11515**
Agency No. 12-026-L

Petitioner,

v

Nickquawn Hardy
System ID No.0472009

Respondent.

Issued and entered
this 2nd day of October 2012
by Randall S. Gregg
Deputy Commissioner

FINAL DECISION

I. BACKGROUND

Respondent is a licensed resident insurance producer. The Office of Financial and Insurance Regulation (OFIR) received information alleging Respondent had improperly held, misappropriated or converted money in the course of conducting insurance business. After verification of the information and multiple efforts to contact the Respondent, on May 4, 2012, OFIR issued a Notice of Opportunity to Show Compliance (NOSC) to the Respondent alleging that the Respondent had provided justification for revocation of licensure and other sanctions pursuant to Sections 249(a), 1238(1), 1239(1), 2003(1), 2018(1), and 1244(1)(a-c) of the Michigan Insurance Code (Code), MCL 500.249(a), 500.1238(1), 500.1239(1), 500.2003(1), 500.2018(1), and 500.1244(1)(a-c). Respondent failed to reply to the notice.

On June 15, 2012, OFIR issued and sent to Respondent an Administrative Complaint and Order for Hearing (Administrative Complaint). The Order for Hearing required Respondent to take one of the following actions within 21 days: agree to a resolution of

the case, file a response to the allegations with a statement that Respondent planned to attend the hearing, or request an adjournment. Respondent failed to take any action.

On August 9, 2012, OFIR Staff filed a Motion for Final Decision. Respondent did not file a reply to the motion. Given Respondent's failure to reply, Petitioner's motion is granted. The Administrative Complaint, being unchallenged, is accepted as true. Based upon the Administrative Complaint, the Commissioner makes the following Findings of Fact and Conclusions of Law.

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. Factual and Procedural Background

1. Nickquawn Hardy (Respondent) is a licensed resident producer with qualifications in Accident, Health, Life, and Variable Annuities and is authorized to transact the business of insurance in the State of Michigan in the lines for which he holds qualifications.
2. On November 9, 2011, _____ conducted a fraud investigation into Respondent's business activities. The investigation revealed that Respondent submitted 121 fraudulent insurance applications for 40 individuals for the purpose of receiving \$25,800 in commissions that he was not entitled to receive.
3. Respondent had been previously employed with _____ as a producer where he serviced business accounts and group policies.
4. _____'s internal investigation found that while certain named insureds applied for and authorized submission of a particular insurance policy with Respondent, Respondent then submitted additional fictitious applications for the purpose of meeting sales quotas and earning commissions.
5. Additionally, Respondent submitted applications for policies for a fictitious business and group plan that he created.
6. On January 6, 2012, OFIR Staff emailed Respondent seeking information regarding the fictitious applications and business. Respondent did not reply.
7. On January 20, 2012, via certified mail, OFIR Staff renewed its request for information regarding the fictitious applications and business. The letter was returned "not deliverable as addressed."
8. On March 20, 2012, via first class mail to an address provided by the Secretary of State, OFIR Staff again renewed its request for information regarding the fictitious applications and business. The letter was returned "PO Box closed."

9. On May 4, 2012, OFIR issued a Notice of Opportunity to Show Compliance (NOSC) to the Respondent alleging that the Respondent had provided justification for revocation of licensure and other sanctions pursuant to Sections 249(a), 1238(1), 1239(1), 2003(1), 2018(1), and 1244(1)(a-c) of the Michigan Insurance Code (Code), MCL 500.249(a), 500.1238(1), 500.1239(1), 500.2003(1), 500.2018(1), and 500.1244(1)(a-c). Respondent failed to reply to the notice.
10. A search was undertaken of the following to ascertain additional addresses for Respondent: Michigan Secretary of State (SOS) database, Westlaw People Finder, and contact information on file with Respondent's appointing authorities.
11. On May 17, 2012, the Notice of Opportunity to Show Compliance was mailed again by first class mail to Respondent at additional addresses received from the SOS and Respondent's appointing authorities. No response was received.
12. Respondent knew or reasonably should have known that the Code provides the Commissioner with the authority to ascertain the business condition and practices of an agent by examining the accounts, records and documents and transactions of the insurance agent. MCL 500.249.
13. Respondent violated Section 249 of the Code when he failed to respond to OFIR Staff's requests for information regarding the fictitious applications and business.
14. Respondent knew or reasonably should have known that Section 1238 of the Code, MCL 500.1238, requires that he update his address with OFIR. Respondent violated Section 1238 when he failed to keep a current address on file with OFIR.
15. Respondent knew or reasonably should have known that Section 2018 of the Code, MCL 500.2018, provides that making false or fraudulent statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, money, or other benefit from an insurer, agent, broker, or individual is considered an unfair method of competition and an unfair or deceptive act or practice in the business of insurance that is prohibited.
16. Respondent's submission of forged applications for insurance to _____ for the purpose of receiving commissions that he was not entitled to receive constitutes a violation of Section 2018.
17. Respondent knew or reasonably should have known that Section 1239(1)(e) of the Code, MCL 500.1239(1)(e), provides that "[i]ntentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance" provides justification for the Commissioner to suspend or revoke an insurance producer's license.

18. Respondent intentionally misrepresented the terms of applications for insurance when he submitted insurance applications that were fictitiously created for the purpose of meeting sales quotas and earning commissions.
19. Respondent knew or reasonably should have known that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), provides:

The Commissioner may place on probation, suspend, or revoke an insurance producer's license or levy a civil fine under Section 1244 . . . for:

. . .

(h) Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

20. Respondent demonstrated fraudulent and dishonest practices when he submitted unauthorized and fictitious applications for insurance to _____ for the purpose of receiving commissions that he was not entitled to receive. He further engaged in fraudulent and dishonest practices when he created a business and group plan for the purpose of facilitating the submission of fictitious applications to _____.
21. Respondent knew or reasonably should have known that Section 1244(1) of the Code, MCL 500.1244(1), provides that the Commissioner may order the payment of a civil fine of up to \$500 for each violation or up to \$2,500 for each violation if the Commissioner finds that the person knew or reasonably should have known that he or she was in violation of the Code.
22. Based upon the above, Respondent has committed acts providing justification for the Commissioner to order the payment of a civil fine, that restitution be made to cover losses, damages or other harm attributed to Respondent's violation of the Code, and/or that Respondent's insurance producer license be limited, suspended or revoked as may be warranted.
23. On June 18, 2012, a true copy of an Administrative Complaint, Order for Hearing and Notice of Hearing was mailed by first class mail to Respondent at the following addresses on file: Nickquawn Hardy, _____ ;
Nickquawn Hardy, _____ ; Nickquawn Hardy, _____
No response was received.
24. In paragraph 3 of the Order for Hearing, the Commissioner ordered the Respondent to do one of the following within 21 days of the date of the Order: 1) agree to a resolution with the opposing party, 2) file a response to the allegations in the Complaint, or 3) file a request for an adjournment. Paragraph 5 states that

failure to make the required filing shall constitute the default of Respondent in this contested case.

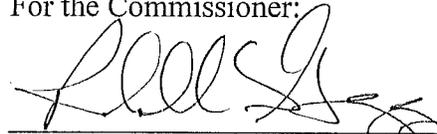
25. Respondent failed to take any of the actions required by paragraph 3 of said Order.
26. Despite Petitioner having made reasonable efforts to serve Respondent and having complied with MCL 500.1238, Respondent has failed to appear and defend.
27. Therefore, where Respondent has received notice and was given an opportunity to have a hearing in this matter and Respondent has not appeared to defend, the Petitioner is entitled to an entry of default and a Final Decision revoking Respondent's insurance producer license.

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 the Code.
2. Respondent shall immediately cease and desist from engaging in the business of insurance.
3. All insurance licenses of Nickquawn Hardy are **REVOKED**.

R. Kevin Clinton, Commissioner
For the Commissioner:



Randall S. Gregg, Deputy Commissioner

