

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of Insurance and Financial Services

Department of Insurance and
Financial Services,

Petitioner,

v

Case No. 15-952-L
Docket No. 15-001555-DIFS

Alisa M. Meeks and
Alisa M. Meeks Agency,

Respondents.

For the Petitioner:

Elizabeth V. Bolden (P69865)
Dept. of Insurance and Financial Services
530 W. Allegan Street, 8th Floor
Lansing, MI 48933

For the Respondent:

Alisa M. Meeks and
Alisa M. Meeks Agency, LLC

Issued and entered
this 9th day of June 2015
by Randall S. Gregg
Special Deputy Director

FINAL DECISION

The Administrative Law Judge issued a Proposal for Decision dated April 8, 2015. She recommended that the Director issue a final decision consistent with the Findings of Fact and Conclusions of Law as outlined in her Proposal for Decision. The factual findings in the PFD are in accordance with the preponderance of the evidence and the conclusions of law are supported by reasoned opinion. Neither party filed exceptions. Michigan courts have long recognized that the failure to file exceptions constitutes a waiver of any objections not raised. *Attorney General v. Public Service Com'n*, 136 Mich.App. 52 (1984).


ORDER

Therefore, it is ORDERED that:

1. The PFD is adopted and made part of this final decision.
2. Respondents shall pay restitution to _____ in the amount of \$44,266.16.
3. Respondents shall pay to the State of Michigan a civil fine of \$10,000.00.
4. The insurance producer licenses of Respondents are REVOKED.

Patrick M. McPharlin
Director

For the Director:



Randall S. Gregg
Special Deputy Director

RECEIVED

APR 17 2015

DIFS/OGC

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:

Docket No.: 15-001555-DIFS

Department of Insurance and
Financial Services,
Petitioner

Case No.: 15-952-L

v

Agency: Department of
Insurance and Financial
Services

Alisa M. Meeks and
Alisa M. Meeks Agency,
Respondent

Case Type: DIFS-Insurance

Filing Type: Appeal

Issued and entered
this 15th day of April 2015
by: Renee A. Ozburn
Administrative Law Judge

PROPOSAL FOR DECISION

PROCEDURAL HISTORY

On January 7, 2015, the Department of Insurance and Financial Services (DIFS/Petitioner) issued an Order for Hearing and Complaint alleging that Alisa M. Meeks and Alisa M. Meeks Agency (Respondents) violated the Michigan Insurance Code (Code), 1956 PA 218, as amended; MCL 500.100 *et. seq.*

A Notice of Hearing was issued on January 15, 2015, scheduling a hearing for March 5, 2015. The Notice was mailed to Respondents at their last known addresses of record. On March 5, 2015, at the time scheduled for hearing, Attorney Elizabeth Bolden was present and ready to proceed on behalf of Petitioner. Respondents were not present and no one appeared on their behalf. The undersigned Administrative Law Judge deemed that Respondents had been duly served with notice and the hearing could proceed in their absence pursuant to Section 72 of the Administrative Procedures Act, 1969 PA 306, as amended, (APA) MCL 24.201 *et seq.* Attorney Bolden motioned to default Respondents pursuant to Section 78 of the APA. The undersigned Administrative Law Judge granted a default. A default judgment constitutes a decision that Petitioner's allegations against Respondent are true as alleged in the Complaint issued on January 7, 2015.

ISSUES AND APPLICABLE LAW

Sec. 1205.

(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:

(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.

Sec. 1207.

(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.

Sec. 1239.

(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:

(d) Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.

(e) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

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

(3) The license of a business entity may be suspended, revoked, or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by 1 or more of the partners, officers, or managers acting on behalf of the partnership or corporation and the violation was neither reported to the commissioner nor corrective action taken.

SUMMARY OF EXHIBITS

Petitioner Exhibits:

- Exhibit 1 DIFS Information re: Insurance License
- Exhibit 2 DIFS Information re: Insurance Agency
- Exhibit 3 Insurer- All State R3001S Exclusive Agency Agreement
- Exhibit 4 Michigan Certificate of No-Fault Insurance dated 2/9/10
- Exhibit 5 Fax Cover Sheet re: Michigan Certificate of No-Fault Insurance dated 2/24/10
- Exhibit 6 Articles of Incorporation Substitute Teachers of America
- Exhibit 7 EDS Membership Account Application dated 12/29/09
- Exhibit 8 Cancelled EDS Cashier's Check dated 1/10/10
- Exhibit 9 Chase Bank Statement for Substitute Teachers of America Jan. 2010
- Exhibit 10 Chase Bank Business Signature Card for Substitute Teachers of America, signatory Alisa Meeks
- Exhibit 11 Cancelled USAA Cashier's Check dated 2/26/2010, payable to Substitute Teachers of America
- Exhibit 12 Excerpt USAA Investigation Report provided to DIFS
- Exhibit 13 PenFed Visa Account Statement
- Exhibit 14 Bloomfield Township Case Report

FINDINGS OF FACT

1. Alisa M. Meeks (Respondent/Meeks), System ID No. 0166000, is a licensed resident insurance producer with qualifications in accident and health, casualty, life, multiple lines P & C, property, and variable annuities.
2. Alisa M. Meeks Agency LLC (Respondent/AMM Agency), System ID No. 0025035, is a licensed resident insurance producer agency with qualifications in accident and health, casualty, life, multiple lines P & C, property, and variable annuities. Its registered office is 191 N. Old Woodward Ave. Suite 100, Birmingham, MI 48009-3350.
3. Meeks is the only licensed affiliated agent of AMM Agency. AMM Agency does not have a designated responsible licensed producer on file with the Department of Insurance and Financial Services (DIFS).
4. Substitute Teachers of America, Inc., (STA) is a Michigan corporation. Meeks is the present and sole member –manager of STA. STA's principle place of business is located at 1709 Livernois, Troy, MI, 48083.
5. During the relevant time period, Respondents were exclusive agents for Allstate Insurance Company. Meek's Allstate branch location operates from the same Livernois address as does STA.
6. Sometime in late 2009 and early 2010, Meeks solicited use of her credit counseling service in order to remove some of his credit deficiencies. provided Meeks with all of his personal and financial information to assist with the credit repair.
7. On the advice of Meeks, applied for a bank account with Electronic Data System Federal Credit Union (EDS). He also applied for an EDS MasterCard which he received and used for personal expenses. also applied for a credit card with Pentagon Federal Credit Union (PenFed) and was issued a card with a credit limit of \$20,000. He did not use this card.
8. In late 2009 paid \$1,400 in cash to Meeks for an Allstate personal auto insurance policy. Meeks failed to remit the premium or policy application to Allstate. Consequently, did not have insurance coverage for his vehicle. Meeks used \$1,400 premium payment for purposes other than purchasing his insurance. Subsequently, was in a car accident and had to pay out-of-pocket to fix his car.

9. After being informed that he had no coverage, contacted Meeks. She told him that he needed to pay more money to purchase a commercial auto policy because it would be cheaper than a personal auto policy even though vehicle was for personal use and did not qualify for a commercial auto insurance policy.
10. On February 9, 2010, paid additional money to Meeks by credit card for her to purchase a commercial auto insurance policy from Allstate. Meeks gave him no credit for or refund of the \$1,400 premium he had already paid.
11. Meeks provided with two binders indicating that coverage was effective with Allstate on February 9, 2010. However, Meeks did not submit the application for the commercial policy or remit the premium to Allstate; instead, she used premium funds for purposes other than purchasing his insurance. Therefore, remained uninsured.
12. On April 1, 2010, Meeks used the credit card information she had previously acquired from to make a \$700 payment to Allstate to purchase the commercial policy. It was later determined that did not give Meeks permission to charge his card an additional \$700. There was no need to charge his card again since he had already paid a premium for a commercial policy on February 9, 2010.
13. On April 2, 2010, nearly two months after believed he had purchased insurance coverage, Meeks finally submitted his application to Allstate for the commercial policy and coverage was bound with a retroactive effective date of March 22, 2010.
14. Subsequent to the EDS and PenFed accounts being opened, discovered that several other accounts were being opened in his name through the use of his personal information. More specifically, the following transactions occurred without permission or knowledge:
 - a. On January 15, 2010, STA charged \$17,500 to PenFed card.
 - b. On January 20, 2010, a cash advance on the EDS MasterCard was requested over the phone in the amount of \$13,516.03. The next day, EDS issued check number 949429 in the amount of \$13,516.03 payable to STA.

- c. On January 22, 2010, Meeks deposited check number 949429 into STA's J.P. Morgan Cash Bank. Three days later Meeks withdrew \$7,600 in cash from the account.
 - d. On January 25, 2010, a credit card was applied for and issued in _____ name with USAA Federal Savings Bank (USAA) with a credit limit of \$15,000.
 - e. On February 9, 2010, a USAA checking account was established in _____ name.
 - f. On February 10, 2010, two cash advances were made from the credit card and deposited into the USAA checking account in the amounts of \$13,000.13 and \$500.00.
 - g. On February 26, 2010, electronic check number 995002 was requested and issued from the USAA checking account in the amount of \$13,250.13 made payable to STA.
 - h. On March 2, 2010, Meeks deposited check number 995002 into STA's J.P. Morgan Chase Bank account.
 - i. On March 29, 2010, a \$250 payment was made from the USAA checking account to the USAA credit card to delay collection efforts by USAA and to conceal from _____ the existence of the accounts and charges.
15. _____ did not authorize Meeks or STA to open a USAA checking account or credit card in his name.
16. _____ did not authorize any payments, cash advances or bank transfers to either Meeks or STA.
17. Meeks and STA received a total of \$44,266.16 from _____ lines of credit without his permission or knowledge.
18. Respondents knew or should have known that Section 1205(2)(b) of the Code, MCL 500.1205(2)(b), provides that each business entity must have a DRLP who is responsible for the business entity's compliance with Michigan's insurance laws, rules and regulations. AMM Agency has no DRLP on file with DIFS who is responsible for AMM Agency's compliance with Michigan's insurance laws, rules and regulations.

19. Respondents knew or should have known that Section 1207(1) of the 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."
20. Respondents knew or should have known that Section 1239(3) of the Code, MCL 500.1239(3), provides that the license of a business entity may be suspended, revoked or refused if the Director finds that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the partnership or corporation and the violation was neither reported to the Director nor corrective action taken.
21. Respondents knew or should have known that Section 1239(1)(e) of the Code, MCL 500.1239(1)(e), provides that the Director may take action against an insurance producer who intentionally misrepresents the terms of a policy of insurance. Meeks intentionally misrepresented the terms of an insurance policy when she represented to [redacted] that he was covered under personal and commercial auto policies when no such coverage existed.
22. Respondent AMM Agency has provided justification for suspension or revocation of licensure when Meeks, the sole member-manager acting on behalf of the business entity, knew or should have known that when she intentionally misrepresented coverage provided under an insurance policy, such conduct was a violation that was not reported to the Director and no corrective action was taken.
23. Respondents knew or should have known that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h) provides that the Director may take action against an insurance producer who uses fraudulent and dishonest practices and/or demonstrates untrustworthiness and financial irresponsibility in the conduct of business.
24. As a licensed insurance producer and the sole member-manager responsible for the compliance of AMM Agency with Michigan's insurance laws, rules and regulations, Meeks knew or should have known that Section 1239(1)(h) of the Code provides that the Director may take action against an insurance producer who used fraudulent and dishonest practices and/or demonstrates untrustworthiness and financial irresponsibility in the conduct of business.

25. Meeks used fraudulent and dishonest practices and demonstrated untrustworthiness and financial irresponsibility in the conduct of business by:
 - a. Converting premium intended to pay for insurance for her own personal and business use;
 - b. Intentionally failing to submit an insurance application to an insurer;
 - c. Intentionally failing to remit premium money to the insurer to which it was due;
 - d. Intentionally issuing fraudulent insurance binders knowing no insurance application or premium funds would be submitted to the insurer to actually bind the coverage;
 - e. Soliciting, selling and negotiating a commercial auto insurance policy where the vehicle to be insured was for personal use and not business/commercial use;
 - f. Misappropriating personal and financial information to open lines of credit for her personal and business use; and
 - g. Purposefully concealing her use of personal and financial information by paying on the fraudulently opened accounts with his funds.

26. Respondent AAM Agency has provided justification for suspension or revocation of licensure because Meeks, the sole member-manager acting on behalf of the business entity, knew or should have known she was using dishonest practices and/or demonstrating untrustworthiness in the conduct of business by:
 - a. Converting premium intended to pay for insurance for her own personal and business use;
 - b. Intentionally failing to submit an insurance application to an insurer;
 - c. Intentionally failing to remit premium money to the insurer to which it was due;

- d. Intentionally issuing fraudulent insurance binders knowing no insurance application or premium funds would be submitted to the insurer to actually bind the coverage;
 - e. Soliciting, selling and negotiating a commercial auto insurance policy where the vehicle to be insured was for personal use and not business/commercial use;
 - f. Misappropriating personal and financial information to open lines of credit for her personal and business use; and
 - g. Purposefully concealing her use of personal and financial information by paying on the fraudulently opened accounts with his funds.
 - h. Failing to report the business entities violations to the Director and failing to take corrective actions.
27. As a licensed insurance producer and sole member-manager responsible for the compliance of business entity AMM Agency with Michigan's insurance laws, rules and regulations, Meeks knew or should have known that Section 1239(1)(d) of the Code, MCL 500.1239(1)(d), provides that the Director may take action against an insurance producer who improperly converts money and/or other valuable property received in the course of doing insurance business.
28. Meeks improperly converted money received as payment for insurance premiums when she diverted money meant for insurance premiums to her own personal and business accounts.
29. Meeks also improperly misappropriated money and personal financial information received in the course of providing credit counseling services to an insurance client.
30. Respondent AMM Agency has provided justification for suspension or revocation of licensure when Meeks, the sole member-manager acting on behalf of the business-entities knew or should have known that she was improperly converting money received as payment for insurance when she diverted money and other valuable property to her own personal and business accounts and the violation was not reported to the Director and no corrective action was taken.

31. Based upon the actions listed above, Respondents have committed acts that provide justification for the Director to order payment of a civil fine, the refund of any overcharges, that restitution be made to cover losses, damages or other harm attributed to her violations of the Code, and/or other licensing sanctions, including revocation of licensure.
32. On April 2, 2014, a Notice of Opportunity to Show Compliance (NOSC) was mailed first class mail to Respondents at the following addresses on file: Alisa M. Meeks, 12925 Riverdale Avenue, Detroit, MI 48223; Alisa M. Meeks, 1892 Heron View Drive, West Bloomfield, MI 48234; and Alisa M. Meeks Agency, LCC, c/o Alisa Meeks, 1709 Livernois, Troy, MI 48084. Respondents failed to respond to the NOSC.
33. Respondents responded to the Administrative Complaint and requested an adjournment of the hearing date and an opportunity to respond to the NOSC and Administrative Complaint.
34. On or about August 29, 2014, Respondent filed a written response to the NOSC and Administrative Complaint. Respondents' response addressed the allegations contained in the NOSC and the Statement of Factual Allegations, but did not demonstrate compliance with the Code. Instead, Respondents asserted that:
 - a. Respondents never received \$1,400.000 for a personal auto policy, and only received a \$700.00 credit card payment for the commercial auto policy on February 9, 2010.
 - b. Respondents did submit the application for a commercial policy on February 9, 2010, with an effective date of March 22, 2010.
 - c. Respondents issued a binder to _____ on February 9, 2010 with an effective date of March 22, 2010.
 - d. Respondents remitted _____ \$700.00 premium payment received from _____, to Allstate on February 9, 2010.
 - e. _____ informed Respondents that his vehicle was for commercial use and his business was registered with Wayne County
 - f. Meeks did not open any lines of credit in _____ name or misappropriate his personal information.
 - g. Meeks did not open any fraudulent accounts with personal and financial information.
 - h. Meeks did not provide credit counseling services to _____
 - i. Meeks did not misappropriate any money from _____ credit cards.

35. Respondent's assertions are not consistent with the weight of evidence and Respondents have failed to show compliance with applicable sections of the Code.

CONCLUSIONS OF LAW

Petitioner bears the burden of proving that Respondents violated the Code as alleged in the January 7, 2015 Order for Hearing and Complaint. Pursuant to the above default Findings of Fact, the Petitioner has established that Respondents violated Code Sections 1205(2)(b), 1207(1), 1239(1)(d),(e) & (h), as alleged.

PROPOSED DECISION

The undersigned Administrative Law Judge recommends that the Director issue a final decision consistent with the above Findings of Fact and Conclusions of Law.

EXCEPTIONS

The parties may file Exceptions to this Proposal for Decision within twenty-one (21) days after it is issued. An opposing party may file a response within fourteen (14) days after initial Exceptions are filed. All Exceptions and Responses to Exceptions must be filed with the Department of Insurance and Financial Services, Ottawa State Office Building, 3rd Floor, P.O. Box 30220, Lansing, Michigan 48909; Attention: Dawn Kobus, and served on all parties to the proceeding.



Renee A. Ozburn
Administrative Law Judge