

1360-4-1-.06 and 1360-4-1-.15(c). The Respondent was held in **DEFAULT** and Petitioner was permitted to proceed on an uncontested basis.

INITIAL ORDER

The subject of this hearing was the proposed revocation of Respondent's Tennessee insurance producer license and entry of an order assessing civil penalties against Respondent for violations of Tenn. Code Ann. §§ 56-6-112(a)(2), (5) and (8); § 56-53-103(a)(1)(A); and §§ 56-8-104(1)(A) and (F). After consideration of the evidence, testimony, and entire record in this matter, it is determined that: the Respondent's insurance producer is **REVOKED**; and Respondent is **ORDERED** to pay a civil monetary penalty of one thousand dollars (\$1,000.00) for each violation of the Tennessee Insurance Law, totaling **SIXTY-THREE THOUSAND DOLLARS** (\$63,000.00), plus the costs of this action. This decision is based upon the following findings of fact and Conclusions of Law.

FINDINGS OF FACT

1. The Division is the lawful agent through which the Commissioner administers the Law, and is authorized to bring this action for the protection of the public.
2. The Respondent, Damion Scott LaRonge, is licensed to sell insurance in Tennessee, having been issued insurance producer license number 1005541 by the Division on November 4, 2008. The Respondent's last address of record with the Division is 708 Oak Creek Drive, Antioch, Tennessee 37013; however, the Division has received information that Respondent is currently residing in the state of Wisconsin.
3. United Benefits of America, LLC ("UBA") is a limited liability company engaged in selling membership products, individual accidental death and dismemberment life insurance policies, and group insurance coverage offered to individuals incident to membership in non-

profit organizations and/or membership associations. UBA also sells: individual major medical insurance policies issued by Assurant Health ("Assurant"), term life insurance coverage issued by Banner Life Insurance Company ("Banner"), and accidental death insurance policies issued by Fidelity Life Association – a Legal Reserve Life Insurance company ("Fidelity").

Memberships and insurance policies are typically marketed as membership/plan packages that include hospitalization, critical illness, accident, and prescription card and in numerous cases represented to consumers as insured full-coverage health benefit "plans." The principal office of UBA is located at 301 Plus Park, Nashville, Tennessee 37217-1088.

4. From April 16, 2007 through April 2009, Respondent was employed by UBA as a Benefits Specialist, selling the products described in Paragraph 3 above by telephone to prospective customers based on leads provided by automated calling devices or other UBA employees. Respondent described benefits available under the various plans and policies, quoted prices, obtained the commitment of the customers to purchase them, and secured credit card or checking account payment information.

5. From July 2008 until his termination in April 2009, Respondent was employed by UBA as a Benefits Supervisor and/or Membership Director, positions which involved direct supervision of UBA Benefit Specialists assigned to his sales team, completing third-party verifications of completed sales, and review and submission of all paperwork.

6. In a sworn statement given to Division investigators on March 23, 2009, Respondent acknowledged that he sold Assurant, Banner and Fidelity insurance policies, and conducted third-party verification of sales of such policies, but never entered into an appointment agreement with any insurer authorizing him to sell, solicit, or negotiate insurance on behalf of any insurer.

7. Respondent was identified by other UBA employees as the UBA Benefit Supervisor shown in a WSMV Channel 4 news segment which was broadcast on April 27, 2009 instructing a UBA Benefit Specialist to use the "TAFT" sales method. ("TAFT" is an acronym for "tell them any f___ing [expletive deleted] thing.")

8. According to sworn statements made by other UBA employees to Division investigators, Respondent conducted numerous third-party verifications of sales of insurance policies with full knowledge that the terms and conditions of such policies had been misrepresented by Benefit Specialists that he supervised. Evidence submitted indicates that sales practices directed and/or condoned by the Respondent, included:

a. using the term "insurance" and "major medical" to describe limited benefit insurance and drug discount plans;

b. intentionally omitting important terms or information in sales presentations with regard to policy limitations and exclusions, daily or annual limits for hospital stays or pre-existing condition limitations;

c. telling customers that the UBA Benefit Specialist was a representative of BlueCross BlueShield, that the customer's BlueCross BlueShield policy(ies) were being cancelled, and that a UBA product had been approved for the customer as a "replacement" of such policy(ies);

d. telling customers that their cancer or other serious illnesses would be "covered in full" without regard to limitations and exclusions contained in the policies actually sold; adding additional products to a sale without the customer's knowledge or approval;

e. using bait and switch tactics; that is, substituting a lower-priced product with less benefits after describing a higher-priced product with more benefits; and

f. conducting dishonest and deceptive third-party verifications by telling customers that policies were "full coverage health insurance plan" when they were, in fact, limited benefit insurance policies.

9. Documents obtained by Division investigators showing that Respondent conducted third-party verification of policies sold by UBA Benefits Specialists to various customers were submitted into the record, showing that Respondent confirmed misleading or false information on at least sixty-three (63) separate occasions.

CONCLUSIONS OF LAW

1. In accordance with Tenn. Comp. R. and Regs. 1360-4-1-.02(7), Petitioner bears the burden of proof in proving by a preponderance of the evidence that the facts alleged in the Petition are true and that the issues raised therein should be resolved in its favor.

2. Tenn. Code Ann. § 56-6-112(a) provides in pertinent part that "[t]he commissioner may place on probation, suspend, revoke or refuse to issue or renew a license issued under this part or may levy a civil penalty in accordance with § 56-2-305 or take any combination of those actions, for any one (1) or more of the following causes:

(2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

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

3. Tenn. Code Ann. § 56-2-305(a) provides as follows:

(a) If, after providing notice consistent with the process established by § 4-5-320(c) and providing the opportunity for a contested case hearing held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, part 3, the commissioner finds that any insurer, person, or entity required to be licensed, permitted, or authorized by the division of insurance has violated any statute, rule or order, the commissioner may, at the commissioner's discretion, order:

(1) The insurer, person, or entity to cease and desist from engaging in the act or practice giving rise to the violation;

(2) Payment of a monetary penalty of not more than one thousand dollars (\$1,000) for each violation, but not to exceed an aggregate penalty of one hundred thousand dollars (\$100,000), unless the insurer, person, or entity knowingly violates a statute, rule or order, in which case the penalty shall not be more than twenty-five thousand dollars (\$25,000) for each violation, not to exceed an aggregate penalty of two hundred fifty thousand dollars (\$250,000). This subdivision (a)(2) shall not apply where a statute or rule specifically provides for other civil penalties for the violation. For purposes of this subdivision (a)(2), each day of continued violation shall constitute a separate violation; and

(3) The suspension or revocation of the insurer's, person's, or entity's license.

4. Tenn. Code Ann. § 56-6-115(a) provides as follows:

An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

5. Tenn. Code Ann. § 56-8-104 provides in pertinent part as follows:

The following are defined as unfair trade methods of competition and unfair trade

practices in the business of insurance by any person:

- (1) MISREPRESENTATIONS AND FALSE ADVERTISING OF INSURANCE POLICIES. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement, sales presentation, omission or comparison that:
 - (A) Misrepresents the benefits, advantages, conditions, or terms of any policy;
.....
 - (E) Uses any name or title of any policy or class of policies misrepresenting the true nature of the policy or class of policies;
 - (F) Is a misrepresentation, including any intentional misquote of premium rate, for the purpose of inducing or tending to induce the purchase, lapse, forfeiture, exchange, conversion, or surrender of any policy;
.....

6. Tenn. Code Ann. § 56-53-103 provides in pertinent part as follows:

- (a) Any person who commits, participates in, or aids, abets, or conspires to commit, or solicits another person to commit, or permits its employees or its agents to commit any of the following acts with an intent to induce reliance, has committed an unlawful insurance act:
 - (1) Presents, causes to be presented, or prepares with knowledge or belief that it will be presented, by or on behalf of an insured, claimant or applicant to an insurer, insurance professional or a premium finance company in connection with an insurance transaction or premium finance transaction, any information that the person knows to contain false representations, or representations the falsity of which the person has recklessly disregarded, as to any material fact, or that withholds or conceals a material fact, concerning any of the following:
 - (A) The application for, rating of, or renewal of, any insurance policy;
.....
- (b) It shall be unlawful for any person to commit, or to attempt to commit, or aid, assist, abet or solicit another to commit, or to conspire to commit an unlawful insurance act.

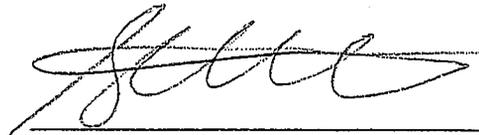
7. The Petitioner has met its burden of proof by a preponderance of the evidence that, on at least sixty-three (63) separate occasions, the Respondent misrepresented, or caused to be represented, the terms, conditions and limitations of insurance policies sold to consumers and used fraudulent, coercive, or dishonest practices, constituting grounds for an order revoking

Respondent's insurance producer license and levying civil penalties pursuant to Tenn. Code Ann.

§§ 56-6-112(a)(2), (5) and (8); § 56-53-103(a)(1)(A); and § 56-8-104(1)(A) and (F).

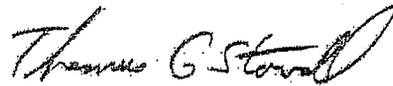
It is therefore **ORDERED** that the insurance producer license of Damion Scott LaRonge, numbered 1005541, be **REVOKED**, and that the Respondent pay a civil penalty of one thousand dollars (\$1,000.00) for each violation, for a total of **SIXTY-THREE THOUSAND DOLLARS (\$63,000.00)**, plus the costs of this action.

This Initial Order entered and effective this 29th day of JUNE, 2010.



Steve R. Darnell
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State,
this 29th day of JUNE 2010.



Thomas G. Stovall, Director
Administrative Procedures Division