BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE FOR THE STATE OF TENNESSEE

TENNESSEE INSURANCE DIVISION, **Petitioner,**	)	
v.	)	**APD No.: 12.01-126350J**
	)	**TID No.: 14-123**
LISA M. PERRY, **Respondent**	)	

NOTICE OF DEFAULT AND INITIAL ORDER

This matter was heard on March 12, 2015, in Nashville, Tennessee before the Honorable Mary M. Collier, Administrative Law Judge, assigned by the Secretary of State, Administrative Procedures Division, to sit for the Commissioner of the Tennessee Department of Commerce and Insurance ("Commissioner"). James R. Witham, Assistant General Counsel, represented the Petitioner, the Tennessee Insurance Division ("Division"), in this matter. Lisa Michelle Perry, ("Respondent"), was not present nor was an attorney present on her behalf.

NOTICE OF DEFAULT

The Division moved for default based on failure of the Respondent, or her representative, to appear at the scheduled hearing after receiving proper notice thereof. In support of the motion, Petitioner submitted a mail receipt showing notice of the hearing and notice of Respondent's rights was mailed via U.S. certified mail, return receipt requested, to Respondent's address of record on November 26, 2014. On November 26, 2014, the Respondent was also mailed notice of the hearing and notice of her rights via U.S. mail. The Respondent did not sign

the certified return receipt and the notice of the hearing and notice of the Respondent's rights was returned as "unclaimed" to the Division. On December 8, 2014, Mr. Witham had a telephone conversation with the Respondent in which she indicated that she had received notice of the hearing and charges against her, as well as notice of her rights via U.S. mail. Furthermore, the Administrative Procedures Division sent the Respondent a scheduling order via U.S. mail and received no returned mail from the Respondent's address of record.

The record indicates that service was legally sufficient in accordance with Tennessee Code Annotated ("Tenn. Code Ann.") § 4-5-309 and § 56-6-112(f); and Tennessee Compilation Rules and Regulations ("Tenn. Comp. R. & Regs.") 1360-04-01-.06 and 1360-04-01-.15(c). The Respondent was held in **DEFAULT** and the Division 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)(1),(2),(3),(4), (8), and (9) (2011).

After consideration of the evidence and entire record in this matter, it is determined that the Respondent's Insurance Producer License is **REVOKED**.

The Respondent is **ORDERED** to pay a civil monetary penalty of one thousand dollars ($1,000) for each day of continued violation as alleged in Count I of the Division's Notice of Hearing and Charges, beginning on March 26, 2013, and ending on July 18, 2013, the date that the Division received notice of the Respondent's fraudulent conduct. Because the Respondent's continued violation of Tennessee insurance law exceeds the maximum aggregate civil monetary penalty permitted by law, the Respondent is ordered to pay a total civil monetary penalty of **one**

hundred thousand dollars ($100,000). The Respondent shall have **sixty (60) days** from receipt of this Initial Order to pay the above-mentioned civil monetary penalty.

Lastly, no insurance renewal application can be considered until civil penalties are paid in full by the Respondent.

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 is a licensee of the Division who is responsible for being compliant with the insurance laws, rules and regulations of the State of Tennessee. At all times relevant hereto, the Respondent held Insurance Producer license number 0994670, which expired on May 1, 2014.

3. The Respondent is a Tennessee resident with an address of 325 Montezuma Road, Kingsport, Tennessee 37664-4240, which is presently on file with the Division.

4. Upon information and belief, the Respondent either resides or resided at 3001 S. Ocean Dr., #1005, Hollywood, Florida 33109.

JOE GARY REED

5. Mr. Joe Gary Reed, a licensed Tennessee insurance producer, responded to the Respondent's Craigslist advertisement which was seeking to employ insurance producers.

6. Between on or about October, 2011, to on or about January, 2012, the Respondent met with Mr. Reed in Kingsport, Tennessee to discuss the details of the job.

7. The Respondent identified herself as Myra Peppin to Mr. Reed and supplied Mr. Reed with an application.

8. Mr. Reed completed this application and furnished it to the Respondent so that he might have an opportunity to offer his services as an insurance agent to the Respondent.

9. Mr. Reed's application contained personally identifiable information.

10. Mr. Reed did not accept the Respondent's offer to be a part of her alleged insurance agency, USA Benefit Solution.

11. On or about March 26, 2013, the Respondent, without Mr. Reed's knowledge or consent, established an insurance appointment with Colorado Bankers Life Insurance Company ("CBLIC") under Mr. Reed's name.

12. From on or about March, 2013, to on or about April, 2013, the Respondent used Mr. Reed's identity to wrongfully procure insurance sales and used a Regions Bank account for depositing fraudulent commissions.

13. From on or about April 16, 2013, to on or about April 18, 2013, the Respondent fraudulently misappropriated approximately three thousand three hundred eight dollars and fifty-eight cents ($3,308.58) in fraudulent commissions by fraudulently using Mr. Reed's identity.

14. From on or about July 9, 2013, to on or about July 13, 2013, the Respondent, without Mr. Reed's knowledge or consent, renewed Mr. Reed's Tennessee insurance producer license and changed his contact information through the Tennessee Department of Commerce and Insurance by using Mr. Reed's personally identifiable information.

15. On or about July 13, 2013, the Respondent, without Mr. Reed's knowledge or consent, submitted Mr. Reed's insurance application to an insurance carrier, Equitable Life and Casualty Insurance Company ("Equi-Life").

16. In order to perpetuate a fraudulent insurance appointment under Mr. Reed's name, on or about July 13, 2013, the Respondent furnished a fraudulent certificate of liability insurance to Equi-Life.

ACTIONS TAKEN BY OTHER INSURANCE DEPARTMENTS

17. On or about October 28, 2013, the Respondent's Connecticut insurance producer's license was revoked by a default decision. The Respondent was found to have violated Sections 38a-16, 38a-479qq, 38a-702e, 38a702i, 38a-702k, 38a-702m, 38a-712, 38a-769, 38a-771, 38a-774, and 38a-816 of the Connecticut General Statutes.

18. On or about April 7, 2014, the Respondent's California insurance license was revoked for violation of the California Insurance Code Section 1729.2(a) and 1729.2(d).

TROY READY

19. On or about January 21, 2014, the Respondent served as an insurance agent for VitalOne Health Plans LLC ("VitalOne"), an insurance agency located in Miami Lakes, Florida.

20. On or about January 22, 2014, the Respondent negotiated an insurance policy to VitalOne on behalf of an Oregon resident, Mr. Troy Ready.

21. On or about January 29, 2014, the Respondent discontinued her agency contract with VitalOne.

22. On or about March 1, 2014, the Respondent continued to contact Mr. Ready and falsely portrayed herself as an insurance agent working for VitalOne.

23. Respondent told Mr. Ready that there were changes that needed to be made to his policy.

24. Operating under the mistaken belief that the Respondent was still employed by VitalOne, Mr. Ready provided the Respondent with personally identifiable information from his Bank of America bank account.

25. On or about March 3, 2014, Mr. Ready experienced an unauthorized attempt to issue preauthorized debits to his Bank of America bank account.

26. These preauthorized debits requested that money be withdrawn from Mr. Ready's Bank of America bank account in the form of payments to IMG Marketing Group and mailed to 501 N. Ocean Blvd. #3, Boca Raton, Florida 33434.

RENEWAL APPLICATION

27. On or about December 13, 2011, the Respondent was arrested for battery by the Miami Dade Police Department in Dade County, Florida.

28. On or about May 1, 2012, the Respondent submitted her Tennessee insurance license renewal application to the Tennessee Department of Commerce and Insurance.

29. The Respondent answered "no" to the following question on the renewal application: "Have you been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime, which has not been previously reported to this state?"

CONCLUSIONS OF LAW

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

2. Tenn. Code Ann. § 56-6-112(a) (2011) 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 this section or take any combination of those actions, for any one (1) or more of the following causes:

> (1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;
>
> (2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;
>
> (3) Obtaining or attempting to obtain a license through misrepresentation or fraud;
>
> (4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
> . . .
>
> (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere; and
>
> (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory.

3. Tenn Code Ann. § 56-6-112(g)(2) (2011) permits a maximum penalty of one thousand dollars ($1,000) per violation of Tenn. Code Ann. § 56-6-112(a), up to a total maximum aggregate penalty of one hundred thousand dollars ($100,000). Each day of continued violation shall constitute a separate violation.

4. In deciding the appropriate penalty, Tenn. Code Ann. § 56-6-112(h) (2011) requires the Commissioner to consider the following:

> (1) Whether the person could reasonably have interpreted such person's actions to be in compliance with the obligations required by a statute, rule or order;
>
> (2) Whether the amount imposed will be a substantial economic deterrent to the violator;
>
> (3) The circumstance leading to the violation;

(4) The severity of the violation and the risk of harm to the public;

(5) The economic benefits gained by the violator as a result of noncompliance;

(6) The interest of the public; and

(7) The person's efforts to cure the violation.

5. The Division has met its burden of proof by a preponderance of the evidence that the Respondent engaged in a total of thirteen **(13)** violations of Tennessee Insurance Law. The record shows that Respondent engaged in one **(1)** violation of Tenn. Code Ann. § 56-6-112(a)(1); two **(2)** violations of Tenn. Code Ann. § 56-6-112(a)(2); one **(1)** violation of Tenn. Code Ann. § 56-6-112(a)(3); one **(1)** violation of Tenn. Code Ann. § 56-6-112(a)(4); six **(6)** violations of Tenn. Code Ann. § 56-6-112(a)(8); and two **(2)** violations of Tenn. Code Ann. § 56-6-112(a)(9).

6. Respondent:

(1) Provided incorrect, misleading, incomplete or materially untrue information on her Tennessee insurance licensing application;

(2) Violated the laws or regulations of the commissioners for the states of Connecticut and California;

(3) Obtained her Tennessee insurance license through misrepresentation and fraud;

(4) Improperly withheld, misappropriated, and converted approximately three thousand three hundred eight dollars and fifty-eight cents ($3,308.58) that she received in the course of doing insurance business;

(5) Used fraudulent, coercive, dishonest practices, and demonstrated incompetence, untrustworthiness and financial irresponsibility in the conduct of business in this state by: fraudulently stealing the identity of Mr. Reed in order to obtain fraudulent commissions; and committing fraud against Mr. Ready in an attempt to steal money from Mr. Ready's bank account; and

(6) Had her insurance producer license revoked in the states of Connecticut and California.

7. These Findings of Fact and Conclusions of Law support grounds for an order revoking Respondent's Insurance Producer License and levying civil penalties pursuant to Tenn. Code Ann. § 56-6-112(g)(2).

It is therefore **ORDERED** that the Insurance Producer License of Lisa Michelle Perry, numbered 0994670, be **REVOKED**, and that the Respondent pay a total civil monetary penalty of **one hundred thousand dollars ($100,000)**. This penalty is assessed as follows:

1. One thousand dollars ($1,000) for violating Tenn. Code Ann. § 56-6-112(a)(8) as alleged in Count I of the Division's Notice of Hearing and Charges; and

2. One thousand dollars ($1,000) per day for one hundred fifteen (115) days of continued violation of Tenn. Code Ann. § 56-6-112(a)(8), beginning on March 26, 2013, the first date of violation as alleged in Count I of the Division's Notice of Hearing and Charges, and ending on July 18, 2013, the date that the Division received notice of the Respondent's fraudulent conduct.

3. Since the Respondent's continued violation of Tennessee insurance law exceeds the maximum aggregate civil monetary penalty permitted by law, the Respondent is ordered to pay a total civil monetary penalty of one hundred thousand dollars ($100,000).

No insurance application from the Respondent may be considered by the Tennessee Department of Commerce and Insurance until all civil penalties are paid in full by the Respondent.

Respondent shall have sixty (60) days from receipt of this Initial Order to pay the above mentioned civil monetary penalty.

This Initial Order entered and effective this 9th day of April, 2015.

Mary M. Collier, Administrative Law Judge

Filed in the Administrative Procedures Division, this 9th day of April, 2015.

J. Richard Collier, Director
Administrative Procedures Division

APPENDIX A TO INITIAL ORDER
NOTICE OF APPEAL PROCEDURES

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243-1102. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.