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State of Tennessee  
Department of State  
Administrative Procedures Division  
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January 27, 2009

Commissioner Leslie Schecter Newman  
Tennessee Department of Commerce &  
Insurance  
5<sup>th</sup> Floor, Davy Crockett Tower  
500 James Robertson Parkway  
Nashville, Tennessee 37243-5065

Bruce Poag  
Assistant General Counsel  
Tennessee Department of Commerce &  
Insurance  
2nd Floor, Davy Crockett Tower  
500 James Robertson Parkway  
Nashville, TN 37243

Shelia Diane Bryan  
14024 Coys Drive  
Huntsville, AL 35803

RE: In the Matter of: Shelia Diane Bryan

Docket No. 12.01-101066J

Enclosed is an Initial Order rendered in connection with the above-styled case.

Administrative Procedures Division  
Tennessee Department of State

/aem  
Enclosure

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

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SECRETARY OF STATE

TENNESSEE INSURANCE DIVISION, )  
Petitioner, )  
vs. : )  
SHELIA DIANE BRYAN, )  
Respondent. )

No: 12.01-101066J

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ORDER

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This matter came to be heard before Administrative Judge Marion Wall sitting on behalf of the Commissioner of the Department of Commerce and Insurance (the "Department") on January 20, 2009 at 500 James Robertson Parkway, Nashville, Tennessee 37243. The Department was represented by Bruce Poag. Respondent was not present nor was she represented by counsel, and the Department moved for a default judgment. Upon satisfactory proof of service notifying Respondent of the date, time and location of the hearing, the Department's motion for a default judgment was granted. Based on the entire record, including oral testimony and documentary evidence, Respondent's insurance producer license, numbered 711228, shall be immediately revoked.

FINDINGS OF FACTS

In making its determination to revoke Respondent's insurance producer license, the Court identified the following Findings of Facts:

1. Shelia Diane Bryan ("Respondent") is a resident of Alabama, residing at 14024 Coys Drive, Huntsville, Alabama 35803 and, at all times relevant to the events herein, has been licensed by the Insurance Division to sell insurance in Tennessee as a non-resident insurance producer, having obtained said license, numbered 711228, in 1993.

2. On approximately July 18, 2005, Mary Wales purchased commercial liability insurance for her business, C & M Excavating, from Respondent. C & M Excavating is a Tennessee

company with its principal place of business located at 195 Elder Drive, Prospect, Tennessee 38477.

3. Respondent subsequently provided Ms. Wales with a signed Certificate of Liability Insurance dated March 17, 2006 with effective dates from July 18, 2005 through July 18, 2006 for coverage with Zurich Insurance Company (“Zurich”) and effective dates from July 19, 2005 through July 19, 2006 with Safeco.

4. On May 30, 2006, a commercial vehicle owned and operated by C & M Excavating was involved in a property damage accident when a bulldozer being transported by the vehicle became lodged under a CSX railway overpass causing extensive damage to the overpass. Ms. Wales duly notified Respondent of the accident.

5. In May 2007, CSX sent a demand letter through Commercial Recovery Corporation to Ms. Wales for at least thirty-five thousand three hundred eighty-nine dollars and seventy-seven cents (\$35,389.77), the expense necessary to repair the damage to the overpass.

6. Upon receiving the demand letter, Ms. Wales was subsequently notified by Zurich Insurance Company (“Zurich”) that her commercial liability insurance policy was canceled in September 2005 due to non-payment of insurance premiums.

7. For approximately two (2) years—from the inception of the commercial liability insurance policy purchased from Respondent until the time Ms. Wales learned that C & M Excavating’s commercial liability insurance policy was canceled for non-payment of insurance premiums—Ms. Wales paid, in total monthly installments, at least thirty-five thousand three hundred eighty-nine dollars and seventy-seven cents (\$35,389.77) in insurance premiums directly to Respondent. Respondent failed to forward to Zurich approximately thirty-five thousand three hundred eighty-nine dollars and seventy-seven cents (\$35,389.77) in insurance premium payments she received from Ms. Wales. At no time did Ms. Wales receive a notice of cancelation from Zurich.

8. On August 15, 2007, Alabama Department of Insurance investigator Dale Gentry and Zurich investigator Patrick Burnette interviewed Respondent at her business office in Ardmore, Alabama. During the course of the interview and after being confronted with documentation supporting the allegations made by Ms. Wales, Respondent admitted to Messrs. Gentry and Burnette that she misappropriated Ms. Wales' insurance premium payments. Based on its investigation, the Alabama Department of Insurance filed an administrative complaint against Respondent. Currently, the matter is pending and no formal disposition has been ordered.

### CONCLUSIONS OF LAW

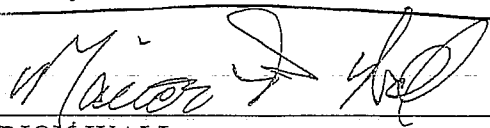
In making its determination to revoke Respondent's insurance producer license, the Court made the following Conclusions of Law:

9. Respondent violated TENN. CODE ANN. § 56-6-112(a)(4) by improperly withholding, misappropriating or converting insurance premium payments received from Ms. Wales.

10. Respondent violated TENN. CODE ANN. § 56-6-112(a)(7) by admitting to an Alabama Department of Insurance investigator that she committed insurance fraud by failing to forward Ms. Wales' insurance premium payments directly to Zurich.

11. Respondent violated TENN. CODE ANN. § 56-6-112(a)(8) by using fraudulent, coercive or dishonest practices, or by demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere by failing to forward Ms. Wales' insurance premium payments directly to Zurich and, instead, using the insurance premium payments for purposes other than their intended use.

**IT IS ORDERED**, therefore, that Respondent's insurance producer license, numbered 711228, pursuant to TENN. CODE ANN. § 56-6-112(a), is hereby **REVOKED**. It is so **ORDERED**.

  
MARION WALL  
ADMINISTRATIVE JUDGE

BEFORE THE COMMISSIONER OF THE TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF:

SHELIA DIANE BRYAN

DOCKET NO. 12.01-101066J

ORDER

THIS ORDER IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN February 11, 2009.

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION  
WILLIAM R. SNODGRASS TOWER  
312 EIGHTH AVENUE NORTH, 8<sup>th</sup> FLOOR  
NASHVILLE, TENNESSEE 37243-0307

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, 615/741-7008 OR 741-5042, FAX 615/741-4472. PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.