



STATE OF TENNESSEE
BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE

TENNESSEE INSURANCE DIVISION,)
)
 Petitioner,)
)
 vs.) **APD No.: 12.01-204688J**
) **TID No.: 20-184**
ALEXANDER HERAMB)
)
 Respondent.)

NOTICE OF AGREED FINAL ORDER

The Petitioner, by and through undersigned counsel, pursuant to Tenn. Code Ann. §§4-5-301 to 4-5-325 and the Tennessee Rules of Civil Procedure, hereby files the following Notice of Agreed Final Order.

Respectfully Submitted,

Miles Brooks Jr.

Miles Brooks Jr., BPR #35056
Associate General Counsel
Department of Commerce and Insurance
Davy Crockett Tower, 8th Floor
500 James Robertson Parkway
Nashville, Tennessee 37243
615-253-8706
Miles.Brooks@tn.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this Notice of Agreed Final Order will be served upon Respondent Alexander Heramb via email to Alex@ProficientClaims.Pro on the 21st day of April, 2021.

Miles Brooks Jr.

Miles Brooks Jr.



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

TENNESSEE INSURANCE DIVISION,)
)
 Petitioner,)
)
 vs.)
)
 ALEXANDER HERAMB,)
)
 Respondent.)
)

APD No.: 12.01-204688J
TID No.: 20-184

AGREED FINAL ORDER

The Insurance Division of the Tennessee Department of Commerce and Insurance (the “Division”) and Alexander Heramb (the “Respondent”) hereby stipulate and agree to the entry and execution of this Agreed Final Order (“Order”), subject to the approval of the Commissioner of the Tennessee Department of Commerce and Insurance (the “Commissioner”), as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Order is subject to and requires the Commissioner’s acceptance and has no force and effect until such acceptance is evidenced by the Commissioner’s signature and execution of this Order. Entry and execution of this Order by the Commissioner shall occur once the Commissioner signs and dates this Order.

2. This Order is entered into by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Should this Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Order by the

Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

3. The Respondent fully understands that this Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts or omissions not specifically addressed in this Order or for facts and/or omissions that do not arise from the facts or transactions addressed herein.

4. The Respondent fully understands that this Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for violations of the law addressed specifically in this Order, or for violations of the law under statutes, rules, or regulations of the State of Tennessee, which may arise out of the facts, acts, or omissions contained in the Findings of Fact and Conclusions of Law stated herein, or which may arise as a result of the entry and execution of this Order.

5. The Respondent expressly waives all further procedural steps and all rights to seek a hearing, judicial review, or to otherwise challenge or contest the validity of this Order, the stipulations and imposition of discipline contained herein, and the consideration and entry and execution of this Order by the Commissioner.

AUTHORITY AND JURISDICTION

6. The Commissioner has jurisdiction of this action pursuant to Title 56 of the Tennessee Code Annotated (“Tenn. Code Ann.”), specifically Tenn. Code Ann. §§ 56-1-202 and 56-6-901 *et seq.* (the “Law”). The Division is the lawful agent through which the Commissioner discharges this responsibility.

PARTIES

7. The Division is the lawful agent through which the Commissioner discharges the administration of the Law, and it is authorized to bring this action for the protection of Tennessee citizens.

8. The Respondent is a licensee of the Division who is responsible for being compliant with the insurance laws and regulations of the State of Tennessee.

9. The Respondent holds a current nonresident Tennessee public adjuster license, number 2463301, which became active on or about November 8, 2019.

10. The Respondent has been assigned National Insurance Producer Number 16888625 by the National Insurance Producer Registry (“NIPR”), a service of the National Association of Insurance Commissioners (“NAIC”).

11. The Respondent’s address of record on file with the Division is 271 SW 6th Place, Pompano Beach, FL 33060.

12. The Respondent’s actual current address is 15249 Foamflower Lane, Sale Creek, TN 37373.

FINDINGS OF FACT

13. On April 12, 2020, multiple tornados touched down in middle Tennessee causing extensive damage.

14. On April 12, 2020, the home of David and Carol Flowers (the “Flowers”), located at 2423 Bending Oak Drive, Chattanooga, TN 37421, was destroyed by a tornado.

15. The Respondent was introduced by a mutual acquaintance to the Flowers requesting to become their claims adjuster. The Flowers agreed to the representation and signed a contract with the Respondent allowing the Respondent to represent the claim to State Farm.

16. The Respondent has since released the Flowers from their contract due to a complaint alleging he failed to fulfill his duties as a licensed public adjuster. The complaint occurred after the claim was settled with a full payout.

18. On April 12, 2020, the home of James and Elaine McGowan (the “McGowans”), located at 2407 Laurelton Creek Lane, Chattanooga, TN 37421, was destroyed by a tornado.

19. On April 25, 2020, the McGowans contacted the Respondent and requested a claims adjuster. The same day, the McGowans signed a contract with the Respondent allowing him to represent their claim to State Farm. The McGowans made an initial payment to the Respondent in the amount of two thousand, six hundred dollars (\$2,600).

20. The Respondent released the McGowans from their contract after they filed a complaint that he did not perform his duties as a licensed public adjuster.

21. The Division received a total of three (3) complaints alleging the Respondent failed to meet his duties as a licensed public adjuster. Due to multiple complaints being received in a short period of time, the Division placed the Respondent’s license under summary suspension on December 14, 2020.

22. The Respondent currently remains under summary suspension.

23. The Respondent currently resides in Tennessee at the address of 15249 Foamflower Lane, Sale Creek, TN 37373. The Respondent has not updated his current address with the Division.

CONCLUSIONS OF LAW

24. At all times relevant hereto, Tenn. Code Ann. § 56-6-910(a) has provided that:

The commissioner may place on place on probation, cancel, terminate, suspend, revoke or refuse to issue or renew a public adjuster’s license, or may levy a civil penalty, in accordance with [a license issued under Title 56, Part 6, Chapter 9], or any combination of actions, for any one (1) or more of the following causes:

...

- (7) Having committed any insurance unfair trade practice or insurance fraud prohibited under chapters 8 and 53 of this title; [or]
- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this state or elsewhere[.]

25. Tenn. Code Ann. § 56-6-910 further states:

...

- (e) In addition to, or in lieu of, any applicable denial, suspension, cancellation, termination, or revocation of a license, a person may, after a hearing, be subject to a civil penalty in an amount not less than one hundred dollars (\$100), nor more than one thousand dollars (\$1,000), for each separate violation of the grounds in subsection (a). Each day of continued violation shall constitute a separate violation.
- (f) The commissioner shall retain the authority to enforce this part and impose any penalty or remedy authorized by this part, or any other provision of this title against any person who is under investigation for or charged with a violation of this part, even if the person's license or registration has been surrendered or has lapsed by operation of law.

...

26. Tenn. Code Ann. § 56-6-909(c) provides that a “licensee shall inform the commissioner, by any means acceptable to the commissioner, of a change of address . . . within thirty (30) days of the change.”

27. Tenn. Code Ann. § 56-8-105 provides that the following acts constitute an unfair claims practice:

- (1) Knowingly misrepresenting relevant facts or policy provisions relating to coverages at issue;
- (2) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies;

- (3) Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies; [or]
- (4) Except when the prompt and good faith payment of claims is governed by more specific standards, not attempting in good faith to effectuate prompt, fair and equitable settlement of claims submitted in which liability has become reasonably clear[.]

29. The Respondent failed to change his address on file with the Division within thirty (30) days. To date, the Respondent has not updated his address on file with the Division. This is a violation of Tenn. Code Ann. § 56-6-909.

31. The Respondent admits to the Findings of Fact and Conclusions of Law stated herein and consents to the entry and execution of this Order.

32. The Respondent agrees to pay a civil penalty in the amount of one thousand dollars (\$1,000).

ORDER

NOW THEREFORE, on the basis of the foregoing and the waiver by the Respondent of his right to a hearing and appeal under Tennessee insurance law and Tennessee's Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 *et seq.*, and the Respondent's admission of the jurisdiction of the Commissioner, the Commissioner finds that the Respondent, for the purpose of settling this matter, admits the Findings of Fact and Conclusions of Law, agrees to the entry and execution of this Order, and agrees that this Order is in the public interest, consistent with the purposes fairly intended by the law.

IT IS THEREFORE ORDERED, pursuant to Tenn. Code Ann. § 56-6-910, that the Respondent, Alexander Heramb:

1. Pay a **CIVIL PENALTY** in the amount of one thousand dollars (\$1,000). The payment of such civil penalty shall be made by check payable to the Tennessee Department of Commerce and Insurance. Page one (1) of this Order must accompany payment for reference.

Payment shall be made within one (1) year of the date this agreement is executed by the Commissioner, and payment shall be mailed to:

State of Tennessee
Department of Commerce and Insurance
Legal Division
Attn: Miles Brooks Jr.
Davy Crockett Tower
500 James Robertson Parkway
Nashville, TN 37243

2. **CHANGE** his contact information to reflect his current address, current phone number, and current email address. The Respondent is required to make this change within **seven (7)** business days. If the Respondent should change his address in the future, the Respondent is **REQUIRED** to update his contact information as stated in Tenn. Code Ann. § 56-6-909(c).

3. The summary suspension placed on the Respondent's license is **REMOVED**.

4. **IT IS FURTHER ORDERED** that this Order represents the complete and final resolution of, and discharge with respect to all administrative and civil, claims, demands, actions and causes of action by the Commissioner against the Respondent for violations of Tenn. Code Ann. §§ 56-6-909 and 56-6-910 alleged by the Division to have occurred with respect to the facts contained herein.

5. This Order is in the public interest and in the best interests of the Parties, and represents a compromise and settlement of the controversy between the Parties and is for settlement purposes only. By the signatures affixed below, the Respondent affirmatively states that he has freely agreed to the entry and execution of this Order, that he waives the right to a hearing on the matters underlying this Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made to it by the Commissioner, the Division, or any agent or representative thereof. The Parties, by signing this Order, affirmatively state their agreement to be bound by the terms of this Order and aver that no

Law contained herein, and that no threats or promises of any kind have been made to it by the Commissioner, the Division, or any agent or representative thereof. The Parties, by signing this Order, affirmatively state their agreement to be bound by the terms of this Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement as set forth in this Order, are binding upon them.

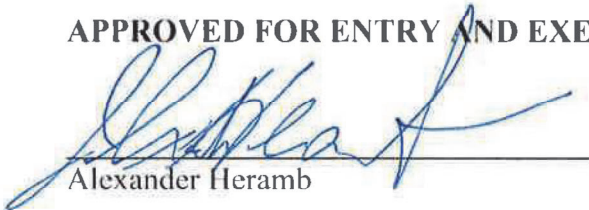
6. This Order may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document. The facsimile, email, or other electronically delivered signatures of the parties shall be deemed to constitute original signatures, and facsimile or electronic copies shall be deemed to constitute duplicate originals.

ENTERED AND EXECUTED April ____, 2021.


Carter Lawrence (Apr 20, 2021 12:40 CDT)

Carter Lawrence
Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY AND EXECUTION:


Alexander Heramb


Bill Huddleston (Apr 20, 2021 08:12 CDT)

Bill Huddleston
Assistant Commissioner for Insurance
Department of Commerce and Insurance


By: Miles K. Brooks Jr. (Apr 19, 2021 12:09 CDT)

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