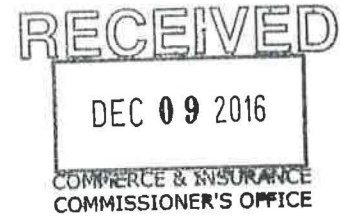




**State of Tennessee**  
**Department of State**  
Administrative Procedures Division  
312 Rosa L. Parks Avenue  
8<sup>th</sup> Floor, William R. Snodgrass Tower  
Nashville, Tennessee 37243-1102  
Phone: (615) 741-7008/Fax: (615) 741-4472



December 8, 2016

Commissioner Julie Mix McPeak  
Tennessee Department of Commerce &  
Insurance  
Office of Legal Counsel  
12<sup>th</sup> Floor, Davy Crockett Tower  
500 James Robertson Parkway  
Nashville, Tennessee 37243-5065

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500 James Robertson Parkway  
Nashville, TN 37243-0569

RE: In the Matter of: Ethel Ella Hipes and Brittany Hipes  
Docket No. 12.01-130466J

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

Administrative Procedures Division  
Tennessee Department of State

/aem  
Enclosure

**RECEIVED**  
**DEC 12 2016**  
**DEPT. OF COMMERCE AND INSURANCE**  
**LEGAL OFFICE**

**BEFORE THE COMMISSIONER OF THE TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE**

**IN THE MATTER OF:**

**ETHEL ELLA HIPES AND BRITTANY HIPES      DOCKET NO. 12.01-130466J**

**NOTICE**

ATTACHED 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 **December 23, 2016.**

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 ROSA PARKS AVENUE, 8<sup>th</sup> FLOOR  
NASHVILLE, TENNESSEE 37243-1102

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.

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

**TENNESSEE INSURANCE DIVISION,  
Petitioner,**

**v.**

**ETHEL ELLA HIPES and  
BRITTANY HIPES,  
Respondents.**

**APD No.: 12.01-130466J**

---

**INITIAL ORDER**

---

This matter came to be heard on May 23, 2016 through May 26, 2016, before Administrative Law Judge Rob Wilson, 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 Insurance Division of the Tennessee Department of Commerce and Insurance (“Division”) in this matter. Respondents, Ethel Ella Hipes and Brittany Hipes, collectively referred to as (“Respondents”), were represented by Mr. James E. Foglesong, Esq.

The subject of this hearing was the proposed revocation of Ethel Ella Hipes’ and Brittany Hipes’ Tennessee Resident Insurance Producer Licenses (“Licenses”), and a request for civil monetary penalties in response to Respondents’ alleged violations of Tennessee Code Annotated (“Tenn. Code Ann.”) §§ 56-6-112(a)(4) and (8). After considering the arguments of counsel and the record in this matter, it is determined that:

- a) the Licenses of both Ella Hipes and Brittany Hipes are **REVOKED**; and

b) respondents are each individually **ORDERED** to pay a **fourteen thousand dollar (\$14,000.00)** civil monetary penalty.

Respondents shall have **one (1) year** from execution of this Initial Order to pay the above-mentioned civil monetary penalties. Respondents and all other persons in any way assisting, aiding, or helping Respondents in any of the aforementioned violations of Tenn. Code Ann. § 56-6-112, shall **CEASE AND DESIST** from all such activities in violation of Tennessee Insurance Law.

This decision is based upon the following Findings of Fact and Proposed Conclusions of Law.

#### **FINDINGS OF FACT**

1. The Commissioner of the Tennessee Department of Commerce and Insurance (“Commissioner”) has jurisdiction over this action pursuant to the Tennessee Insurance Law (“Law”), Title 56 of the Tennessee Code Annotated (“Tenn. Code Ann.”), specifically Tenn. Code Ann. §§ 56-1-202, 56-2-305, and 56-6-112. The Division is the lawful agent through which the Commissioner discharges this responsibility.

2. The Commissioner administers the Law through the Tennessee Department of Commerce and Insurance and authorizes the Division to bring this action for the protection of the public.

3. Ella Hipes held a valid Tennessee insurance producer license, number 1000456, which became active on November 25, 2013. As such, Ella Hipes was responsible for being compliant with the insurance laws, rules and regulations of the State of Tennessee. Her insurance license is currently and has been **SUMMARILY SUSPENDED** since June 19, 2015.

4. Brittany Hipes held a valid Tennessee insurance producer license, number 2278045, which became active on July 28, 2014. As such, Brittany Hipes was responsible for being compliant with the insurance laws, rules and regulations of the State of Tennessee. Brittany Hipes requested that the Department change her insurance producer license for life insurance to inactive on May 7, 2014. She then reapplied for a Tennessee insurance producer license on May 20, 2015, which the Department denied.

5. Brittany Hipes is the daughter of Ella Hipes. At all relevant times, Respondents lived together.

6. The victim in this case, Anna Kirin Davies ("Davies"), passed away on November 2, 2014.

7. Davies had a brother, Jack Kirin ("Kirin"). Before Davies fell ill in 2014, Kirin and Davies had a good relationship and spoke to each other often.

8. Davies' husband, Carl Davies, passed away in 1998. Davies received a settlement of approximately four hundred eighty-eight thousand, five hundred forty-four dollars (\$488,544.00) in December of 1999 from a lawsuit against her deceased husband's nursing home.

9. Around the time Davies' husband passed away, Respondents met Davies through a Jehovah's Witness congregation in Venice, Florida.

10. Ella Hipes first entered into a business relationship with Davies around 2002 when she convinced Davies to use the proceeds of her deceased husband's lawsuit settlement to purchase two hundred fifty thousand dollars (\$250,000.00) in Midland National Life eight (8) year annuities from Ella Hipes.

11. In 2003, Respondents moved from Venice, Florida, to Rock Hill, South Carolina. They convinced Davies to follow them in this move. Davies moved to Rock Hill, South Carolina in 2004 and purchased Respondents' home for fair market value.

12. During this time, from 2003 to 2006, Ella Hipes failed to pay her taxes.

13. Around 2009, Respondents left South Carolina and moved to Knoxville. Ella Hipes asked Davies to sell the annuity policies she sold her in 2002 so that Ella Hipes could borrow the proceeds to buy a home in Knoxville, Tennessee. Davies refused.

14. The annuities Davies purchased from Ella Hipes in 2002 matured in 2011. In January of 2011, while Respondents were living in Knoxville, Tennessee, Davies purchased two (2) annuities from Judy Melograna, an insurance agent in Greenville, South Carolina. Davies purchased a one hundred thousand dollar (\$100,000.00) fixed indexed annuity from Forethought Financial Life Insurance Company ("Forethought") and a one hundred thousand dollar (\$100,000.00) fixed indexed annuity from Fidelity & Guaranty Life ("F&G Life").

15. Davies appointed her brother, Jack Kirin, as the beneficiary of the Forethought and F&G Life annuities.

16. The Forethought and F&G Life annuities allowed Davies, who was eighty-four (84) years old, to make regular withdrawals on the premium and interest, and guaranteed her income for the rest of her life.

17. Respondents moved back to Greenville, South Carolina in 2012. Upon returning, they learned Davies had swapped furniture with Cynthia Ward, a fellow member of the Jehovah's Witness congregation.

18. Ella Hipes "felt that [Davies] had been taken advantage of" by Cynthia Ward. Respondents knew Davies was in her eighties, and an easy target for them to exploit.

19. When Ella Hipes learned Davies had recently purchased annuities from Judy Melograna, she urged Davies to sell both the Forethought and F&G Life annuities. Ella Hipes convinced Davies that Judy Melograna sold Davies unsuitable products.

20. On December 21, 2012, Ella Hipes sold Davies, who was eighty-four (84) years old, two (2) seven (7) year deferred annuities, one (1) for one hundred thousand dollars (\$100,000.00) and one (1) for eighty thousand dollars (\$80,000.00), both from Sentinel Security Life Insurance Company ("Sentinel").

21. Davies appointed Jack Kirin as the beneficiary of both Sentinel annuities.

22. Ella Hipes then "churned" the Sentinel annuities, convincing Davies to make excessive annuity purchases in order to increase her commission. Ella Hipes cancelled Davies' two (2) Sentinel annuities on January 25, 2013, so that Ella Hipes could sell Davies' two (2) Guggenheim Life and Annuity Company ("Guggenheim") annuities, and collect commissions.

23. In 2013, the Internal Revenue Service ("IRS") placed a one hundred one thousand, five hundred five dollar (\$101,505.00) tax lien on Ella Hipes for failing to pay taxes from 2003 through 2006.

24. On February 4, 2013, Ella Hipes sold Davies one hundred eighty thousand dollars (\$180,000.00) in annuities from Guggenheim.

25. In November of 2013, after Ella Hipes sold four (4) different annuities to Davies and received a sizeable commission; Respondents left Davies and moved back to Tennessee.

26. Davies, who was still living in South Carolina, was taken to the doctor by Cynthia Ward on February 28, 2014, because Davies kept falling down. The doctors suspected Davies had had a stroke and ordered an MRI to be performed the following Friday, March 7, 2014. The doctors ordered around-the-clock care at least until the MRI could be performed.

27. Cynthia Ward notified Kirin that his sister would need around-the-clock care. At the time, Kirin was seventy-six (76) years old, living in Ohio, and caring full-time for his medically disabled wife. At Ms. Ward's suggestion, Kirin contacted Ella Hipes, whom he believed still lived in Greenville, South Carolina.

28. From the night of February 28, 2014, until Davies' death on November 4, 2014, Ella Hipes was Davies' primary caretaker.

29. Despite the MRI scheduled for March 7, 2014, and doctors' advice that Davies not travel for at least a week, Ella Hipes moved Davies into Respondents' home in Knoxville, Tennessee on March 4, 2014.

30. Respondents isolated Davies from her brother, Jack Kirin, from March 4, 2014 until Davies' death on November 2, 2014.

31. Davies lived with Respondents in Knoxville, Tennessee from March 4, 2014, through May 11, 2014.

32. When Kirin tried to call his sister, Ella Hipes would tell him that Davies was already asleep or did not wish to speak with him.

33. Ella Hipes was aware that Kirin had durable power of attorney ("POA") over Davies. Ella Hipes mentioned Kirin's POA status in a March 2, 2014, email to Kirin.

34. After isolating Davies from her brother, documents were purportedly executed on March 31, 2014, for the purpose of giving Ella Hipes durable POA.

35. Grant Sperry, an expert forensic document examiner with approximately thirty-seven (37) years of experience, compared samples of Davies' handwriting spanning from 1992 to 2014. When comparing the purported "Anna K. Davies" signature on the March 31, 2014, POA



documents, substantive differences led the expert to find that Davies' signature was "more likely than not" forged.

36. Ella Hipes never notified Kirin that she had POA over Davies in Tennessee. Kirin did not learn of Ella Hipes' POA status until July 2014 when he contacted Guggenheim.

37. When Ella Hipes moved Davies to Knoxville, she took Davies off all prescription diabetes medications. Davies had Type II diabetes and was insulin dependent.

38. On May 11, 2014, Davies fell in Ella Hipes' bathroom and received cuts to the back of her head. Ella Hipes took Davies to the University of Tennessee Medical Center hospital ("UT Medical Center"). The doctors noted Davies had complications from uncontrolled diabetes.

39. Davies remained in the hospital until she was released on May 14, 2014, at 4:37 p.m.

40. The next day, May 15, 2014, at 4:40 p.m., Davies was readmitted to the hospital at UT Medical Center. She stayed in the hospital until May 23, 2014.

41. Ella Hipes spoke to the nurses on Davies' behalf, falsely claiming to be Davies' daughter. Ella Hipes reported to the nurses that, since 2:00 a.m. on May 15, 2014, Davies had right arm and hand weakness and had not been speaking normally.

42. The medical records show that on May 15, 2014, at or before 5:49 p.m., Davies was experiencing "confusion/disorientation and weakness" and appeared "cooperative but confused."

43. During Davies' stay at UT Medical Center, Ella Hipes signed all documents as "Ella Hipes POA." Several notations in the medical records indicate that Davies was unable to sign due to numbness in right hand.

44. While Davies was confused, disoriented, and unable to sign documents, Ella Hipes forged Davies' signature on May 15, 2014, on a change of beneficiary form for Davies' one hundred eighty thousand dollars (\$180,000.00) Guggenheim annuities, sold by Ella Hipes to Davies in 2013.

45. Ella Hipes is the only witness whose signature appears on the Guggenheim change of beneficiary form.

46. The change of beneficiary forms removed Davies' brother, Kirin, and instead named Ella Hipes' daughter, Brittany, as the beneficiary of the Guggenheim annuities.

47. That same day, May 15, 2014, Ella Hipes forged Davies' signature on a Guggenheim "authorization for annuity withdrawal" form, seeking to withdraw ten percent (10%) from Davies' Guggenheim annuities.

48. Ella Hipes is the only witness whose signature appears on this Guggenheim authorization for annuity withdrawal form.

49. Respondents lived with Davies for over two (2) months, and knew Davies lacked the mental and physical capacity to sign or authorize documents of legal significance. Medical records from May 15, 2014, indicate that Davies was "confused and disoriented."

50. When Ella Hipes took Davies to the hospital on May 15, 2014, she told the doctors that Davies had been experiencing numbness in her right arm. Davies always wrote right-handed.

51. Ella Hipes claimed that Davies signed the change of beneficiary and withdrawal authorization forms while at dinner at Carrabba's restaurant on May 15, 2014. However, the medical records clearly show that Davies was in the hospital and had been incapacitated since 2:00 a.m., the morning of May 15, 2014.

52. During investigative interviews, Brittany Hipes claimed that Davies signed change of beneficiary and withdrawal authorization forms while at Autumn Care Nursing Home (“Autumn Care”). This is not possible because Davies did not enter Autumn Care until July 2, 2014.

53. Grant Sperry, the forensic document expert, compared the “Anna K. Davies” signatures on both the Guggenheim change of beneficiary and the authorization for withdrawal forms to twenty-two (22) years of handwriting samples from Davies. Grant Sperry found that there was a “high probability, meaning a virtual certainty” that Davies’ signatures on both Guggenheim forms were forged.

54. Ella Hipes emailed Kirin an update on Davies’ health on May 16, 2016. Ella Hipes did not mention that the previous day she had signed forms that removed Kirin as the beneficiary of his sister’s Guggenheim annuities and substituted instead her daughter, Brittany Hipes, as beneficiary.

55. Immediately upon her release from UT Medical Center on May 23, 2014, Davies was admitted into the West Hills Rehabilitation Center (“West Hills”). She stayed at West Hills until July 2, 2014, at which time she was admitted into Autumn Care.

56. On June 4, 2014, while Davies was at West Hills, Ella Hipes executed a financial durable POA over Davies in South Carolina.

57. That same day, June 4, 2014, Ella Hipes, using coercion and undue influence, convinced Davies to sign a will appointing Ella Hipes as the sole beneficiary and Brittany Hipes as the sole contingent beneficiary of Davies’ estate.

58. Davies' had a prior will in her lock box that appointed her brother, Kirin, as the primary beneficiary of Davies' estate. Respondents had access to and reviewed the documents in Davies' strong box.

59. On July 17, 2014, Davies, as per Ella Hipes' request, underwent a mini-mental exam at Autumn Care. The exam found signs of cognitive deterioration.

60. That same day, on July 17, 2014, Ella Hipes, using coercion and undue influence, convinced Davies to execute a second will appointing Ella Hipes as the sole beneficiary and Brittany Hipes as the sole contingent beneficiary of Davies' estate.

61. On July 24, 2014, Ella Hipes filed a petition in Knoxville, Tennessee for emergency and permanent conservatorship over Davies. In the petition for conservatorship, approximately one (1) week after coercing Davies into executing a will, Ella Hipes stated that Davies suffered from dementia.

62. Kirin, who lived in Ohio, received fewer than twenty-four (24) hours notice of the hearing for emergency conservatorship which was scheduled for July 29, 2014, in Knoxville, Tennessee. Kirin was unable to attend the hearing for emergency conservatorship due the fewer than twenty-four (24) hour notice. As such, Ella Hipes' petition was uncontested and the court appointed her as conservator over Davies.

63. The Order Appointing Conservator ("Order"), entered on September 24, 2014, prohibited Ella Hipes from accessing or selling Davies' Guggenheim annuities without prior court approval.

64. Ella Hipes directly violated the Order on October 27, 2014, when she attempted to surrender Davies' Guggenheim annuities without notifying the court or seeking prior court

approval. Guggenheim denied both Ella Hipes' requests for surrender, as they were in violation of the September 24, 2014 Order.

65. Ella Hipes claimed she "never spent one penny of [Davies'] money on anybody other than [Davies]."

66. Contrary to Ella Hipes' claim regarding spending of Davies' money, back on May 20, 2014, Guggenheim processed Ella Hipes' authorization for withdrawal form and sent Davies a check for eighteen thousand, six hundred twelve dollars (\$18,612.00). Ella Hipes deposited this Guggenheim check into Davies' SunTrust checking account on July 7, 2014. On July 8, 2014, Ella Hipes wrote herself a check for fifteen thousand dollars (\$15,000.00) from Davies' checking account and signed it "Ella Hipes/ POA."

67. From May 11, 2014, when Davies first entered UT Medical Center, through November 2, 2014, Ella Hipes used Davies' SunTrust checking account for over three thousand dollars (\$3,000.00) in personal transactions.

68. From May 11, 2014, when Davies first entered UT Medical Center, through November 2, 2014, Ella Hipes charged more than seven thousand dollars (\$7,000.00) in personal expenses to Davies' Discover credit card.

69. Davies passed away on November 2, 2014.

70. Ella Hipes made false claims to the Chancery Court of Knox County on November 12, 2014. As Davies' conservator, she filed a final accounting claiming that "the Guggenheim accounts could not be accessed without prior court approval, and no access was made or sought on these accounts during the conservatorship."

71. On November 13, 2014, Brittany Hipes mailed a death certificate and claim forms to Guggenheim Life in attempt to fraudulently procure the proceeds from the Guggenheim annuities.

**CONCLUSIONS OF LAW**

1. In accordance with Tennessee Compilation Rules and Regulations 1360-04-01.02(7), the Division bears the burden of 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. At all relevant times, Tenn. Code Ann. § 56-6-112(a) has provided that the Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license issued under Title 56, Chapter 6, Part 1, or issue a civil penalty for the following reasons:

...

(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;

3. For all violations occurring on or after July 1, 2011, Tenn. Code Ann. § 56-6-112 (2011), states in pertinent part:

(e) The commissioner shall retain the authority to enforce this part and impose any penalty or remedy authorized by this part and this title against any person who is under investigation for or charged with a violation of this part or this title, even if the person's license has been surrendered or has lapsed by operation of law.

.....

- (g) If . . . the commissioner finds that any person required to be licensed, permitted, or authorized by the division of insurance pursuant to this chapter has violated any statute, rule or order, the commissioner may, at the commissioner's discretion, order:
  - (1) The person 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). This subsection (g)(2) shall not apply where a statute or rule specifically provides for other civil penalties for the violation. For purposes of this subdivision (g)(2), each day of continued violation shall constitute a separate violation; and
  - (3) The suspension or revocation of the person's license.
- (h) In determining the amount of penalty to assess under this section, the commissioner shall consider:
  - (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 circumstances 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.

4. The Division has met its burden of proof by a preponderance of the evidence that from on or about March 31, 2014 to November 13, 2014, Respondents each engaged in a total of **fourteen (14)** violations of Tennessee insurance laws. The record shows that Respondents engaged in: **twelve (12)** violations of Tenn. Code Ann. § 56-6-112(a)(8) by using fraudulent and

dishonest practices, and demonstrating incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in Tennessee; and **two (2)** violations of Tenn. Code Ann. § 56-6-112(a)(4) by improperly withholding, misappropriating, and converting money received in the course of doing insurance business.

5. On March 31, 2014, Respondents used fraudulent, coercive, and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in violation of Tenn. Code Ann. § 56-6-112(a)(8) by having Davies execute a Power of Attorney purporting to appoint Ella Hipes as her attorney in fact without informing Kirin, her lawful Power of Attorney.

6. On May 15, 2014, Respondents used fraudulent, coercive, and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in violation of Tenn. Code Ann. § 56-6-112(a)(8) by coercively and fraudulently changing the beneficiary of Davies' annuity policies with Guggenheim from Davies' brother, Kirin, to Ella Hipes' daughter, Brittany.

7. On or about May 15, 2014, Respondents used fraudulent, coercive, and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in violation of Tenn. Code Ann. § 56-6-112(a)(8) by coercively and fraudulently completing an authorization for annuity withdrawal of funds from Davies' Guggenheim annuity policies.

8. On or about May 15, 2014, Respondents improperly misappropriated and converted moneys received in the course of doing insurance business in violation of Tenn. Code Ann. § 56-6-112(a)(4) by coercively and fraudulently completing an authorization for annuity withdrawal of funds from Davies' Guggenheim annuity policies.



9. On May 16, 2016, Respondents used fraudulent, coercive, and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in violation of Tenn. Code Ann. § 56-6-112(a)(8) by faxing the change of beneficiary forms to Guggenheim,

10. On May 20, 2014, Respondents improperly misappropriated and converted moneys received in the course of doing insurance business in violation of Tenn. Code Ann. § 56-6-112(a)(4) by receiving eighteen thousand, six hundred twelve dollars (\$18,612.00) from Davies' Guggenheim annuity funds to which she had no legal right.

11. On May 20, 2014, Respondents used fraudulent, coercive, and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in violation of Tenn. Code Ann. § 56-6-112(a)(8) by receiving eighteen thousand, six hundred twelve dollars (\$18,612.00) from Davies' Guggenheim annuity funds to which she had no legal right.

12. On June 4, 2014, Respondents used fraudulent, coercive, and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in violation of Tenn. Code Ann. § 56-6-112(a)(8) by fraudulently and coercively, executing a second Durable Power of Attorney on behalf of Davies.

13. On July 4, 2014, Respondents used fraudulent, coercive, and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in violation of Tenn. Code Ann. § 56-6-112(a)(8) by fraudulently and coercively, preparing and executing a first version of Davies' Last Will and Testament.

14. On July 17, 2014, Respondents used fraudulent, coercive, and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct

of business in violation of Tenn. Code Ann. § 56-6-112(a)(8) by fraudulently and coercively, preparing and executing a second version of Davies' Last Will and Testament.

15. On October 27, 2014, Respondents used fraudulent, coercive, and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in violation of Tenn. Code Ann. § 56-6-112(a)(8) by attempting to surrender Davies' Guggenheim annuity policies without seeking permission from the court in direct violation of the Final Order Appointing Conservator.

16. On October 30, 2014, Respondents used fraudulent, coercive, and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in violation of Tenn. Code Ann. § 56-6-112(a)(8) by attempting to surrender Davies' Guggenheim annuity policies without seeking permission from the court in direct violation of the Final Order Appointing Conservator.

17. On November 6, 2014, Respondents used fraudulent, coercive, and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in violation of Tenn. Code Ann. § 56-6-112(a)(8) by making a false sworn attestation under oath stating, "... the Guggenheim accounts could not be accessed without prior court approval, and no access was sought or made on these accounts during the conservatorship."

18. On November 13, 2014, Respondents used fraudulent, coercive, and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in violation of Tenn. Code Ann. § 56-6-112(a)(8) by filing a fraudulent death claim on the Guggenheim annuities, knowing that she had been fraudulently appointed the beneficiary of such annuities.

It is therefore **ORDERED** that the insurance producer licenses of Respondents Ethel Ella Hipes, numbered 1000456, and Brittany Hipes, numbered 2278045, be **REVOKED**. It is **FURTHER ORDERED** that each Respondent be assessed a civil monetary penalty of **fourteen thousand dollars (\$14,000.00)**. The penalties are assessed as follows:


1. Respondent Ella Hipes is assessed a civil penalty of fourteen thousand dollars (\$14,000.00) for fourteen (14) violations of Tenn. Code Ann. § 56-6-112(a) pursuant to Tenn. Code Ann. § 56-2-112(g) (2011);

2. Respondent Brittany Hipes is assessed a civil penalty of fourteen thousand dollars (\$14,000.00) for fourteen (14) violations of Tenn. Code Ann. § 56-6-112(a) pursuant to Tenn. Code Ann. § 56-6-112(g) (2011);

**Respondents shall have one (1) year from execution of this Initial Order to pay the above-mentioned civil monetary penalties.**

**IT IS FURTHERED ORDERED** that Respondents and all other persons in any way assisting, aiding, or helping Respondents in any of the aforementioned violations of Tenn. Code Ann. § 56-6-112, shall **CEASE AND DESIST** from all such activities in violation of the Law.

This Initial Order entered and effective this 8<sup>th</sup> day of DEC. 2016.

  
Rob Wilson  
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 8<sup>th</sup>

day of DEC, 2016.

*J. Richard Collier*

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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, 8<sup>th</sup> 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.