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November 8, 2016

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Truck Insurance Group
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Michael Grady Jacoway
Truck Insurance Group, LLC
984 McBrien Lane
Chattanooga, TN 37419

RE: In the Matter of: James William Bible and Michael Grady Jacoway d/b/a Truck Insurance Group, LLC
Docket No. 12.01-123967J

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

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure

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DEPT. OF COMMERCE AND INSURANCE
LEGAL OFFICE

BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF:

JAMES WILLIAM BIBLE AND MICHAEL GRADY JACOWAY d/b/a TRUCK INSURANCE GROUP, LLC

DOCKET NO. 12.01-123967J

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 **November 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, 8th 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.	)	**APD No.: 12.01-123967J** **TID No.: 13-150**
TRUCK INSURANCE GROUP, LLC, JAMES WILLIAM BIBLE, and MICHAEL GRADY JACOWAY, **Respondents.**	)	**Administrative Judge: Mattielyn B. Williams**

INITIAL ORDER

This matter came to be heard before Administrative Judge Mattielyn B. Williams, 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 and Kathleen Dixon, Assistant General Counsels, represented the Insurance Division of the Tennessee Department of Commerce and Insurance ("Division") in this matter. Respondents Truck Insurance Group, LLC ("TIG"), James William Bible ("Bible"), and Michael Grady Jacoway ("Jacoway"), collectively referred to as ("Respondents"), appeared before this hearing. James Bible was represented by his attorney, Ms. Sarah Bible Willis. Michael Jacoway represented himself.

The subject of this hearing was the proposed revocation of Jacoway's and Bible's Tennessee Resident Insurance Producer Licensure ("License") 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, Jacoway, and the record in this matter, it is determined that the Licenses of both Jacoway and Bible are **REVOKED** and that they each are **ORDERED** to pay a **two hundred fifty thousand dollar ($250,000.00)** civil monetary penalty, plus the Division's court reporter and litigation costs. TIG is assessed a civil monetary penalty of **two hundred fifty thousand dollars ($250,000.00).**

Respondents Jacoway and Bible shall have **one year** from execution of this Initial Order to pay the above-mentioned civil monetary penalty plus the Division's court reporter and litigation costs pursuant to Tennessee Rules of Civil Procedure ("Tenn R. Civ. P.") 54.04. Respondent TIG shall have **one year** to pay the above-mentioned civil monetary penalty.

Respondents and all other persons in any way assisting, aiding, or helping Respondents in any of the violations of Tenn. Code Ann. § 56-6-112, shall **CEASE AND DESIST** from all such activities in violation of Tennessee insurance laws.

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

FINDINGS OF FACT

Background and Overview

1. The Commissioner has jurisdiction of this action pursuant to the Tennessee Insurance Law ("Law"), Title 56 of 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. TIG is a limited liability company in Marion County, Tennessee, which maintained a business address at 102 Betsy Pack Drive, Suite E, Jasper, TN 37347. TIG holds a business entity license, number 4932.

4. James Bible is a citizen and resident of Marion County, Tennessee, residing at 4190 Mullins Cove Road, Whitwell, TN. He is a licensee of the Division, having been granted Tennessee insurance producer license number 904563 on January 29, 2004. As such, Respondent Bible is responsible for being compliant with the insurance laws, rules, and regulations of the State of Tennessee. As an insurance producer and owner of TIG, Respondent Bible has a fiduciary obligation to properly manage all money received by or on behalf of TIG's policyholders during the course of engaging in the business of insurance. Respondent Bible has worked in insurance for approximately fifteen (15) years.

5. Michael Jacoway is a citizen and resident of Hamilton County, Tennessee, residing at 984 McBrien Lane, Chattanooga, TN 37419. Respondent Jacoway is a licensee of the Division, having been granted a Tennessee insurance resident producer license number 778110 on September 14, 2004. He has been a licensed insurance agent since 1997. As such, Respondent Jacoway is responsible for being compliant with the insurance laws, rules, and regulations of the State of Tennessee. As an insurance producer and owner of TIG, Respondent Jacoway has a fiduciary obligation to properly manage all money received by or on behalf of TIG's policyholders during the course of engaging in the business of insurance.

6. At all relevant times from September 13, 2010, to November 11, 2012, TIG, an insurance agency, was owned and operated by Respondents Bible and Jacoway. Both Respondents Jacoway and Bible were responsible for the proper servicing of TIG's accounts. They were responsible for the proper application of premium payments received and held by

TIG. Accordingly, the Respondents were responsible for ensuring that all premium funds received by TIG were to be used on behalf of each respective policyholder's insurance policy that was serviced by TIG.

7. Any act committed by TIG stated herein is hereby stated to have also been an act committed by Respondents Bible and Jacoway.

8. As an insurance agency and as insurance agents, Respondents were to receive premiums, either from premium financing companies or directly from policyholders, and pay these premium payments to managing general agents ("MGA") who serviced TIG's policyholders. The MGAs managed each respective TIG policyholder account and applied premiums that were due and owing to various insurance carriers on a monthly basis.

9. For a significant amount of the transactions alleged in this case, premium financing through Prime Rate Premium Financing Company ("Prime Rate") and Imperial Credit Corporation ("Imperial") was obtained for the purpose of funding TIG's policyholders' premium payments to insurance carriers. Respondents had a contractual and fiduciary obligation to use all such premium financing in furtherance of paying premium payments to each of their policyholders' respective insurance carriers. Furthermore, Respondents also had a contractual and fiduciary obligation to ensure that all unearned premium financing was returned to the finance companies, mentioned above, or to the insured if the contract was not financed, upon the cancellation of a policyholders' insurance policy.

10. Respondents violated their contractual and fiduciary obligations with Prime Rate and Imperial. Respondents failed to pay insurance carriers the financing that was provided to TIG by Prime Rate and Imperial. They failed to remit unearned premium and unearned commissions back to Prime Rate and Imperial. As a direct consequence of Respondents'

wrongful actions, Respondents subjected their policyholders to civil liability as, despite Respondents' malfeasance, such policyholders were required to compensate these financing companies as a result of the Respondents' failure to return unearned premiums.

11. Normally, an insurance agent or agency uses some sort of accounting practice or business ledger to specifically account for money going in and out of the agency. Respondents have failed to produce one business or accounting ledger indicating specific amounts of premium funds coming into TIG's bank account and going out of TIG's bank account for any of the transactions charged by the Division. Respondents argued that a "phone hack" attacked their server, thus limiting access to responsive files. It remains unclear as to why or how a "phone hack" issue would adversely affect their accounting software. Furthermore, it would be inconsistent and irresponsible to believe that Respondents lost accounting ledgers or business ledgers for two years, but, towards the end of the hearing of this case, were able to produce an accounting ledger for CMP Express that did not even show specific monetary transactions.

12. At no point in time did the Respondents have authorization from their policyholders to utilize their respective premium payments for any other purpose other than funding each respective policyholders' insurance account.

Downs Transportation

13. On or about September 27, 2010, TIG received approximately fifty-seven thousand, nine hundred twenty-four dollars ($57,924.00) from Prime Rate for financing multiple trucking insurance policies on behalf of TIG's client, Downs Transportation ("Downs"). This premium financing payment was to be used for the purpose of funding roughly a year's worth of premium on behalf of Downs.

14. On or about October 28, 2010, TIG remitted approximately six thousand, two hundred sixty-three dollars and seventy-five cents ($6,263.75) to MGA Southern Trace Underwriters ("STU") on behalf of Downs as payment for Downs' trucking cargo insurance policy with Beazley Insurance Company.

15. After October 28, 2010, TIG did not remit any other funds to STU for Downs' insurance policies.

16. On December 6, 2010, Downs' commercial auto insurance policy with Madison Insurance Company was cancelled for non-payment of a down payment to TIG, upon notification received by e-mail from Jacoway. Respondent Jacoway wrongfully requested the MGA for this commercial policy, Appalachian Underwriters Incorporated ("AUI"), to process the cancellation of Downs' commercial auto insurance policy due to nonpayment of a down payment. Records from Prime Rate showed that Jacoway, through TIG, had already represented that a down payment was made by Downs on Prime Rate's financing agreement and TIG had received a year's worth of premium financing from Prime Rate. As a result, Jacoway, through TIG, defrauded Downs by wrongfully cancelling its policy in an attempt to defraud Prime Rate of premium financing loaned to Downs.

17. After cancellation of Downs' commercial auto insurance policy with Madison Insurance Company, TIG remitted a late earned premium payment to AUI. On January 27, 2011, TIG gave AUI ten thousand, nine hundred fourteen dollars and eighty cents ($10,914.80) in earned premium to pay for Downs' subsequently cancelled commercial auto policy with Madison Insurance Company.

18. On December 13, 2010, Downs' commercial general liability policy for tractor trailer drivers with Madison Insurance Company was cancelled for nonpayment of installment payments to Prime Rate.

19. On January 12, 2011, STU, the MGA for Downs' cargo policy with Beazley Insurance Company, gave Prime Rate four thousand, ninety-six dollars and eighty cents ($4,096.80) after the cancellation of Downs cargo policy.

20. TIG made a premium payment of five hundred fifty dollars ($550.00) to AUI on behalf of Downs.

21. On February 22, 2011, AUI was instructed by TIG to wrongfully apply Downs' credit balance of three hundred thirty-seven dollars and fifty cents ($337.50) to other policyholder insurance policy accounts that showed outstanding balances with AUI. This money should have been returned to either Prime Rate or Downs.

22. From on or about December 13, 2010, to the present, following Downs' last policy cancellation, TIG had a contractual and fiduciary duty to remit approximately forty-four thousand, two hundred ninety-two dollars and twenty-five cents ($44,292.25) to Prime Rate following the cancellation of Downs' trucking insurance policies on December 13, 2010.

23. From on or about December 13, 2010, to the present, Respondents knowingly failed to remit approximately forty-four thousand, two hundred ninety-two dollars and twenty-five cents ($44,292.25) to Prime Rate.

24. Jacoway argued that they were merely running an "account current" and would pay statements as they were sent to them. This argument fails to address the true issue, which is the Respondents' failure to properly account for Downs' insurance policies.

25. Respondent Jacoway erroneously argued that Downs should have paid Prime Rate fifteen thousand, one hundred thirty-six dollars and five cents ($15,136.05) for premium financing payments and late charges, and that this figure is an offset of the Respondents' obligation to timely remit unearned premium. The fact that TIG did not return unearned premium increased the liabilities owed by Downs. Had TIG timely forwarded premium financing payments to Madison Insurance Company, then Downs would not have had a cancelled policy coupled with a debt to pay to Prime Rate.

Fitch Express, LLC

26. On or about September 13, 2010, through on or about November 4, 2010, TIG received an approximate total of forty-two thousand, four hundred forty-seven dollars and four cents ($42,447.04) from Prime Rate for financing multiple trucking insurance policies on behalf of TIG's client, Fitch Express, LLC ("Fitch Express").

27. On or about September 14, 2010, TIG received approximately one thousand, eight hundred ninety-two dollars ($1,892.00) from Fitch Express as a down-payment for Fitch Express' trucking insurance policies.

28. On or about September 17, 2010, TIG received a second check for approximately one thousand, eight hundred ninety-two dollars ($1,892.00) from Fitch Express as a down-payment for Fitch Express' trucking insurance policies, however the check bounced.

29. On or about October 25, 2010, endorsements for Fitch Express' insurance policies were processed by STU for an additional premium cost of approximately thirty-nine thousand, one hundred sixty dollars and twenty cents ($39,160.20). These endorsements were a source of contention between the parties because they were processed by Nova Casualty Company, the insurer, with a "long haul" rate as opposed to a "short haul" rate. Mr. Steve Nafe, CEO of STU,

testified that the reason for charging the "long haul" rate was because Fitch Express was using "long haul" trucks from its other company, Fitch Brothers Transportation. Accordingly, a "long haul" rate was charged. Considering, TIG never paid STU for the additional endorsements, any claim of improper rate charging was neither realized by TIG nor Fitch Express. More importantly, Fitch Express agreed to the pricing of these endorsements. As a result, it is **DETERMINED** that Respondent Jacoway's contention that sixteen thousand, five hundred forty-three dollars and ninety cents sixteen thousand, five hundred forty-three dollars and ninety cents ($16,543.90) in premium was overcharged by STU has no merit. Lastly, Jacoway erroneously argues that twenty thousand, eight hundred thirteen dollars and fourteen cents ($20,813.14) in premium financing is owed to Prime Rate from Fitch Express. However, but for the actions of TIG and Respondents, Fitch Express would not owe this money to Prime Rate. Respondents cannot use their own client or policyholder's inability to render payment because Respondents wrongfully kept their policyholder's money in the first place.

30. On or about October 29, 2010, TIG remitted approximately six thousand, seven hundred twenty-six dollars and fifty-five cents ($6,726.55) to the wholesaler, STU, on behalf of Fitch Express as payment for Fitch Express' trucking insurance policies.

31. After October 29, 2010, TIG did not remit any other funds to STU for the Fitch Express trucking insurance policies. Respondents have erroneously argued that they are somehow entitled to not pay any premium payments whatsoever due to alleged billing disagreements with STU.

32. From on or about December 30, 2010, to the present, following Fitch Express' policy cancellation, TIG held an approximate total of thirty-seven thousand, six hundred twelve

dollars and forty-nine cents ($37,612.49) which was given to TIG for the purpose of funding Fitch Express' trucking insurance policies.

33. Between on or about December 30, 2010, and on or about January 14, 2011, Fitch Express' trucking insurance policies were cancelled. Fitch Express' insurance policies were only effective for approximately three months because Fitch Express defaulted on its loan payment with Prime Rate.

34. On or about January 14, 2011, STU issued a credit to TIG in the approximate amount of thirty-three thousand, one hundred fifty-four dollars and seventy-four cents ($33,154.74) following the cancellation of Fitch Express' insurance policies. This credit was given to TIG in an effort to reduce STU's liabilities to Nova Casualty Insurance and Prime Rate. At the time, TIG had amassed a substantial debt with STU in its failure to make premium payments on behalf of its clients or policyholders that had insurance policies being serviced by STU. As it pertains to Fitch Express, STU had to pay approximately thirty-five (35) to forty (40) thousand dollars to Nova Casualty Insurance. As a result, STU was forced to make payments on behalf of TIG's policyholders because TIG gave STU assurances that it would pay STU the premium payments that were due and owing. Fortunately, STU was able to limit the monetary damage caused by TIG in settling with Prime Rate and other applicable carriers. Nevertheless, STU incurred substantial monetary losses because of TIG's wrongful actions.

35. Since Fitch Express received insurance coverage from on or about October 25, 2010, to on or about January 14, 2011, TIG had a fiduciary duty to remit approximately six thousand, five dollars and forty-six cents ($6,005.46) to STU following the cancellation of Fitch Express' insurance policies.

36. From on or about January 14, 2011, to the present, TIG knowingly failed to remit approximately six thousand, five dollars and forty-six cents ($6,005.46) to STU on behalf of Fitch Express.

37. From on or about September 13, 2010, to on or about February 16, 2010, TIG's account with Prime Rate received approximately seventeen thousand, two hundred three dollars and eighty-one cents ($17,203.81) in credits and fifty-five thousand, one hundred twenty-seven dollars and eight cents ($55,127.08) in debits with respect to Fitch Express.

38. On or about December 30, 2010, to the present, TIG had a fiduciary duty to remit approximately thirty-seven thousand, nine hundred twenty-three dollars and twenty-seven cents ($37,923.27) to Prime Rate following the cancellation of Fitch Express' trucking insurance policies between on or about December 30, 2010, and on or about January 14, 2011.

39. On or about December 30, 2010, to the present, TIG knowingly failed to remit approximately thirty-seven thousand, nine hundred twenty-three dollars and twenty-seven cents ($37,923.27) to Prime Rate.

Fitch Brothers Transportation

40. On or about July 26, 2010, TIG received approximately fifty-six thousand, five hundred six dollars ($56,506.00) from Prime Rate for financing multiple trucking insurance policies on behalf of TIG's client, Fitch Brothers Transportation ("Fitch Brothers"). This money was given to TIG for the purpose of funding roughly a year's worth of Fitch Brothers' insurance premium payments to Accident Insurance Company, the insurance carrier for these policies.

41. On or about July 26, 2010, TIG represented that Fitch Brothers paid approximately nine thousand, nine hundred seventy-two dollars ($9,972.00) as a down-payment for the financing of Fitch Brothers' trucking insurance policies.

42. From on or about September 13, 2010, to on or about October 22, 2010, Fitch Brothers' trucking insurance policies were cancelled due to nonpayment of Fitch Brothers' installment payments to Prime Rate.

43. On September 24, 2010, TIG made a late payment to AUI of forty-nine thousand, three hundred sixty-five dollars and sixty cents ($49,365.60) for Fitch Brothers' trucking insurance policies that were cancelled as noted in paragraph 42 above.

44. On October 23, 2010, AUI sent an invoice to TIG showing that thirty-five thousand, nine hundred eighty-two dollars ($35,982.00) in Fitch Brothers' unearned premium was processed for TIG's consideration. This money should have been given to the finance company, Prime Rate, when Fitch Brothers' insurance policies with Accident Insurance Company were cancelled. Instead, Respondent Jacoway wrongfully and fraudulently directed this money to be misappropriated towards other policyholder accounts that were still outstanding with AUI.

45. Respondent Jacoway argued that six thousand one hundred ninety-four dollars ($6,194.00) should have been credited to TIG as a deletion credit; however, this money is due and owing to Prime Rate, not Respondents. When Fitch Brothers' insurance policies with Accident Insurance Company cancelled this money should have gone back to the finance company. There is no evidence to suggest that the deletion credit was not applied to the thirty-five thousand, nine hundred eighty-two dollar ($35,982.00) return premium. In fact, Ms. Traci Richardson testified that the thirty-five thousand, nine hundred eighty-two dollar ($35,982.00) return premium would have included deletion endorsements.

46. Respondent Jacoway also argued that Fitch Brothers owed approximately twenty-one thousand, eight hundred sixty-five dollars and sixty-nine cents ($21,865.69) to Prime Rate.

Although this amount is correct, it is only due as such because of TIG's wrongful actions. Respondents failed to properly remit unearned premium due and owing to Prime Rate.

47. Lastly, Respondent Jacoway incorrectly argues that Fitch Brothers was over charged for deleting two endorsements that should have been classified as "intermediate" instead of "long haul" units. Fitch Brothers' application stated that seventy percent (70%) of its business was over two hundred (200) miles, which would have made it "long haul," not "intermediate," therefore there was no overcharging.

48. On or about October 22, 2010, to the present, TIG had a contractual and fiduciary duty to remit approximately thirty-five thousand, nine hundred eighty-two dollars ($35,982.00) to Prime Rate following the cancellation of Fitch Brothers' trucking insurance policies. However, TIG knowingly failed to remit this money to Prime Rate.

Bruce Tidwell Trucking

49. On or about August 18, 2010, through on or about October 1, 2010, TIG received approximately twenty thousand, ninety-eight dollars and eighty-four cents ($20,098.84) from Prime Rate for financing trucking insurance policies on behalf of TIG's client, Bruce Tidwell Trucking ("Tidwell"). These funds represent a year's worth of premium financing for Tidwell's insurance policies with Northland Insurance.

50. Tidwell's policies were effective for a total of four months from August 13, 2010, to approximately December 29, 2010.

51. On or about August 18, 2010, TIG represented that Tidwell paid approximately one thousand, four hundred fifteen dollars and seventy-six cents ($1,415.76) as a down-payment for the financing of Tidwell's trucking insurance policies.

52. On or about October 12, 2010, TIG remitted approximately thirteen thousand, nine hundred fifty-three dollars and ten cents ($13,953.10) to MGA J.M. Wilson on behalf of Tidwell as payment for Tidwell's trucking insurance policies.

53. Respondent Jacoway erroneously argued that TIG paid thirty-three thousand, eight dollars ($33,008.00) to pay for premium that was due and owing on Tidwell's policies. In support of this argument Jacoway supplied Exhibit 84. One check written from TIG is contained within Exhibit 84. This check is for forty-six thousand, two hundred ninety-three dollars and forty-two cents ($46,293.42), and was applied to TIG's previous outstanding July balance with J.M. Wilson. This check has nothing to do with payment for the applicable August 13, 2010, Tidwell insurance policies numbered WN047017 and CT141846.

54. On October 12, 2010, J.M. Wilson's records show that TIG paid thirty eight thousand, eight hundred seven dollars and seventy-seven cents ($38,807.77) for TIG's outstanding accounts with J.M. Wilson. Of this amount, only thirteen thousand, nine hundred fifty-three dollars and ten cents ($13,953.10) was appropriated for the payment of Tidwell's August 2010 insurance policies.

55. On or about December 29, 2010, Tidwell's trucking insurance policies were cancelled for nonpayment to the carrier, Northland Insurance. Respondent Jacoway erroneously argues that Tidwell's debt to Prime Rate and alleged debt to TIG should be considered in reducing the Respondents' liability to Prime Rate. Other than Respondents' testimony, there was no evidence of payments to support Jacoway's claims that Tidwell was indebted to TIG. On the contrary, the wrongful actions of Respondents show that Tidwell's trucking insurance policies were wrongfully cancelled for nonpayment by TIG to the carrier. TIG wrongfully withheld

premium financing money from Prime Rate which should have been used to pay Tidwell's premium that was due and owing to Northland Insurance.

56. On or about January 10, 2011, J.M. Wilson refunded approximately twelve thousand, eight hundred fifty-two dollars and forty cents ($12,852.40) in unearned premium associated with Tidwell's policies to TIG following the cancellation of Tidwell's trucking insurance policies. This money should have been returned to Prime Rate since premium financing was involved. Instead, TIG wrongfully kept these funds in TIG's bank account.

57. From on or about January 10, 2011, to the present, following the cancellation of Tidwell's policies, TIG wrongfully held an approximate total of twenty thousand, four hundred thirteen dollars and ninety cents ($20,413.90), which was given to TIG for the purpose of funding Tidwell's trucking insurance policies. Instead of using this money to fund Tidwell's insurance policies, Respondents wrongfully misappropriated this money by retaining it in TIG's bank account. Respondents failed to remit these funds to either Tidwell or Prime Rate.

58. From on or about January 10, 2011, to the present, TIG had a contractual and fiduciary duty to remit approximately twenty thousand, four hundred thirteen dollars and ninety cents ($20,413.90) to Prime Rate following the cancellation of Tidwell's trucking insurance policies.

59. From on or about January 10, 2011, to the present, TIG knowingly failed to remit approximately twenty thousand, four hundred thirteen dollars and ninety cents ($20,413.90) to Prime Rate.

D&S Trucking

60. On or about July 26, 2010, TIG received approximately five thousand, three hundred fifty-five dollars ($5,355.00) from Prime Rate for financing an insurance policy on

behalf of TIG's client, D&S Trucking ("D&S"). These funds represent a year's worth of premium financing for D&S's insurance policy with Northland Insurance. Ultimately D&S only received approximately three months of insurance coverage from Northland Insurance from August 4, 2010 to November 1, 2010.

61. On or about July 26, 2010, TIG represented that D&S paid approximately one thousand, three hundred thirty-nine dollars ($1,339.00) as a down-payment for the financing of D&S's trucking insurance policy.

62. On or about October 12, 2010, TIG remitted approximately five thousand, seven hundred fifty-four dollars and sixty cents ($5,754.60) to MGA J.M. Wilson on behalf of D&S as payment for D&S's insurance.

63. On or about November 1, 2010, D&S's trucking insurance policy was cancelled at the request of D&S.

64. On or about January 10, 2011, J.M. Wilson refunded the remaining D&S trucking insurance policy funds in the approximate amount of four thousand, three hundred fifty dollars and sixty cents ($4,350.60) to TIG following the cancellation of D&S's trucking insurance.

65. From on or about January 10, 2011, to the present, following D&S's policy cancellation, TIG wrongfully held an approximate total of five thousand, nine hundred ninety dollars ($5,990.00), which was given to TIG for the purpose of funding D&S's trucking insurance policy. Respondent Jacoway incorrectly argued that debts incurred by D&S for finance charges and fees should be used to mitigate the amount TIG owes; however, these are charges born only by D&S and cannot be used as an offset to rationalize TIG's wrongful conduct.

66. On or about January 10, 2011, to the present, TIG had a contractual and fiduciary duty to remit at least four thousand, eight hundred thirty four dollars ($4,834.00) to Prime Rate following the cancellation of D&S's trucking insurance policy on or about November 1, 2010.

67. On or about January 10, 2011, to the present, TIG knowingly failed to remit approximately five thousand, nine hundred ninety dollars ($5,990.00) to Prime Rate.

New America Transport

68. On or about January 5, 2011, TIG received approximately fifty-four thousand, four hundred thirty dollars ($54,430.00) from Imperial for financing multiple trucking insurance policies on behalf of TIG's client, New America Transport ("New America"). These funds represent a year's worth of premium financing for New America's insurance policies with Accident Insurance Company and State National Insurance Company. New America ultimately only received approximately three and four months of insurance coverage from Accident Insurance Company and State National Insurance Company respectively.

69. New America's insurance policies were cancelled between on or about April and May 2011. Its commercial general liability policy with Accident Insurance Company cancelled on April 15, 2011. Its auto policy with State National Insurance Company cancelled on May 8, 2011. Both were cancelled for nonpayment of premium to AUI.

70. On May 31, 2011, after the cancellation of the above-mentioned policies, TIG sent in a late payment of twenty-one thousand six hundred seventy-two dollars and sixty cents ($21,672.60) to pay off New America's insurance policies with State National Insurance Company and Accident Insurance Company.

71. From on or about April and May 2011, to the present, following New America's policy cancellation, TIG held an approximate total of thirty-two thousand, seven hundred fifty-seven dollars and forty cents ($32,757.40), which was given to TIG for the purpose of funding New America's trucking insurance policies. TIG refused to return this money despite demands for remittance made by Imperial. As a result of TIG's wrongful withholding of New America's premium financing, Imperial obtained a default judgment against New America in the amount of fifty-six thousand, eight hundred forty-seven dollars and fifty-nine cents ($56,847.59). But for TIG's wrongful withholding of premium funds, New America would not have been indebted to Imperial in the amount of fifty-six thousand, eight hundred forty-seven dollars and fifty-nine cents ($56,847.59). During the hearing, Respondent Jacoway erroneously argued that New America owes Imperial money, not TIG. He tried to argue that payment was made concerning American Transport d/b/a Thomas Burk, an entirely separate company from New America, and tried to use this as an offset to the amounts that should have been remitted by TIG to Imperial upon New America's policy cancellations. Those payments have nothing to do with the New America policies charged by the Division.

72. On April 15, 2011 and May 8, 2011, to the present, TIG had a contractual and fiduciary duty to remit approximately thirty-two thousand, seven hundred fifty-seven dollars and forty cents ($32,757.40) to Imperial, following the cancellation of New America's trucking insurance policies.

73. On April 15, 2011 and May 8, 2011, to the present, TIG knowingly failed to remit approximately thirty-two thousand, seven hundred fifty-seven dollars and forty cents ($32,757.40) to Imperial.

Beltana Transport, LLC

Beltana Insurance Financing Involving Prime Rate

74. On or about September 28, 2010, TIG received approximately seventy-four thousand, five hundred twenty-four dollars ($74,524.00) from Prime Rate for financing multiple trucking insurance policies on behalf of TIG's client, Beltana Transport, LLC ("Beltana"). These funds represent a year's worth of premium financing for Beltana's insurance policies with Nova Casualty Insurance Company and Beazley Insurance Company. Beltana ultimately only received an approximate total of five months of insurance coverage from Nova Casualty Insurance Company and Beazley Insurance Company.

75. TIG never remitted any of these funds to the MGA, STU, or the carrier for Beltana's trucking insurance policies that were financed from Prime Rate.

76. Despite TIG's wrongful failure to remit these funds, Beltana paid approximately twenty-five thousand, seven hundred three dollars and four cents ($25,703.04) to Prime Rate to finance its insurance policies.

77. By on or about February 22, 2011, all of Beltana's trucking insurance policies that were financed from Prime Rate were cancelled. On January 12, 2011, Beltana's auto insurance policy cancelled. On February 15, 2011, Beltana's cargo insurance policy was cancelled.

78. From on or about February 22, 2011, to the present, following the cancellation of Beltana's September 28, 2010, trucking insurance policies, TIG held an approximate total of seventy-four thousand, five hundred twenty-four dollars ($74,524.00) in financing from Prime Rate, which was given to TIG for the purpose of funding Beltana's trucking insurance policies.

79. Unfortunately, as of June 5, 2014, Beltana still owed Prime Rate approximately eighteen thousand, one hundred thirty dollars and sixty-five cents ($18,130.65). Beltana made

payments to Prime Rate despite TIG's wrongful misappropriation of its premium financing funds.

80. From on or about February 22, 2011, to the present, TIG had a contractual and fiduciary duty to remit approximately eighteen thousand, one hundred thirty dollars and sixty-five cents ($18,130.65) to Prime Rate following the cancellation of Beltana's trucking insurance policies on February 22, 2011.

81. On or about February 22, 2011, to the present, TIG knowingly failed to remit approximately eighteen thousand, one hundred thirty dollars and sixty-five cents ($18,130.65) to Prime Rate.

82. From on or about February 22, 2011, to the present, TIG knowingly failed to remit approximately thirty-seven thousand, thirty-four dollars and thirty-five cents ($37,034.35) to Beltana, which is the amount left over after subtracting TIG's liabilities to STU and Prime Rate.

Beltana Insurance Coverage Involving Southern Trace

83. On or about October 5, 2010, TIG obtained insurance coverage through STU with a premium amount due in the amount of approximately sixty-seven thousand, three hundred ninety-nine dollars and twenty cents ($67,399.20).

84. From on or about November 2010, through on or about January 2011, TIG's total premium charges due to STU concerning Beltana's insurance policies accrued in the approximate total of sixty-seven thousand, nine hundred fifteen dollars and eighty cents ($67,915.80). STU, on behalf of TIG and Beltana, paid the insurance carriers this balance after receiving assurances from TIG that it would receive payment.

85. On or about January 12, 2011, and on or about February 15, 2011, STU issued a total credit to TIG in the approximate amount of forty-eight thousand, five hundred fifty-six dollars and eighty cents ($48,556.80) following the cancellation of Beltana's Prime Rate financed insurance policies. This was done in order to reduce STU's liability to the insurance carrier and Prime Rate for TIG's failure to remit premium that was due and owing.

86. In the end, TIG obtained insurance coverage through STU on behalf of Beltana with an outstanding premium amount due of approximately nineteen thousand, three hundred fifty-nine dollars ($19,359.00) for coverage provided from on or about October 5, 2010, through on or about February 15, 2011.

87. On or about February 15, 2011, to the present, TIG had a contractual and fiduciary duty to remit approximately nineteen thousand, three hundred fifty-nine dollars ($19,359.00) to STU for the earned premium of Beltana's Prime Rate financed insurance coverage.

88. On or about February 15, 2011, to the present, TIG knowingly failed to remit the earned premium amount of approximately nineteen thousand, three hundred fifty-nine dollars ($19,359.00) to STU.

Beltana Insurance Financing Involving Imperial

89. On or about January 12, 2011, TIG obtained new trucking insurance policies for Beltana, approximately one month prior to the cancellation of Beltana's Prime Rate financed trucking insurance policies. These funds represent a year's worth of premium financing for Beltana's insurance policies with Gramercy Insurance Company and Occidental Fire and Casualty. Beltana ultimately only received an approximate total of three months of insurance coverage from Gramercy Insurance Company and Occidental Fire and Casualty.

90. On or about January 14, 2011, TIG received approximately sixty-nine thousand, seven hundred eighty-eight dollars ($69,788.00) from Imperial for financing multiple Beltana trucking insurance policies on behalf of Beltana.

91. On or about March 15, 2011, TIG remitted approximately eighteen thousand, four hundred eighty dollars and ten cents (18,480.10) to AmWINS Transportation Underwriters, Inc. ("AmWINS"), the MGA, on behalf of Beltana as payment for Beltana's Imperial-financed trucking insurance policies.

92. After March 15, 2011, TIG made no further payments to AmWINS or the carrier for Beltana's Imperial-financed trucking insurance policies.

93. On or about April 12, 2011, Beltana's Imperial-financed trucking insurance policies were cancelled for nonpayment of premium funds to AmWINS. TIG failed to promptly pay Beltana's premium payments that were due and owing to AmWINS.

94. On or about April 12, 2011, to the present, following the cancellation of Beltana's Imperial-financed trucking insurance policies, TIG held an approximate total of fifty-one thousand, three hundred seven dollars and ninety cents ($51,307.90) which was given to TIG for the purpose of funding Beltana's Imperial-financed trucking insurance policies.

95. From on or about April 12, 2011, to the present, TIG had a contractual and fiduciary duty to remit approximately forty-eight thousand, ninety-one dollars and sixty-nine cents ($48,091.69) to Imperial following the cancellation of Beltana's Imperial-financed trucking insurance policies. Imperial sent several demand letters for payment to TIG, which did not result in any payment from TIG.

96. From on or about April 12, 2011, to the present, TIG knowingly failed to remit approximately forty-eight thousand, ninety-one dollars and sixty-nine cents ($48,091.69) to Imperial.

97. From on or about April 12, 2011, to the present, TIG had a contractual and fiduciary duty to remit approximately three thousand, two hundred sixteen dollars and twenty-one cents ($3,216.21) to Beltana following the cancellation of Beltana's Imperial-financed trucking insurance policies. This represents the amount owed to Beltana, minus the amount owed to Imperial out of the total amount financed.

98. On or about April 12, 2011, to the present, TIG knowingly failed to remit approximately three thousand, two hundred sixteen dollars and twenty-one cents ($3,216.21) to Beltana.

99. Respondent Jacoway erroneously contended that he is entitled to an offset of twenty-three thousand, eight hundred forty-seven dollars and twenty-three cents ($23,847.23) due to Beltana's failure to pay Imperial. Respondents' failure to properly remit unearned premium in the first instance cannot be used to offset their obligation to remit unearned premium to Imperial.

CMP Express, LLC

100. On or about January 27, 2010, TIG received approximately forty-five thousand, three hundred forty-nine dollars ($45,349.00) from Prime Rate for financing trucking insurance policies on behalf of TIG's client, CMP Express, LLC ("CMP"). These funds represent a year's worth of premium financing for CMP's insurance policies with Praetorian Insurance Company. CMP ultimately only received an approximate total of seven months of insurance coverage from Praetorian Insurance Company.

101. On or about January 27, 2010, TIG received approximately seventeen thousand, six hundred three dollars ($17,603.00) from CMP as a payment for CMP's trucking insurance policies.

102. On or about April 30, 2010, TIG remitted fifty-six thousand, one hundred eighty-nine dollars and ninety cents ($56,189.90) to the wholesaler, Deep South Surplus, Inc. This money was remitted to Deep South Surplus, Inc. for the purpose of paying premium payments for CMP's trucking insurance policies.

103. On or about August 16, 2010, CMP's trucking insurance policies were cancelled for underwriting reasons.

104. Accordingly, on or about September 13, 2010, Deep South Surplus Inc. remitted twenty-two thousand, three hundred seventy-nine dollars and forty cents ($22,379.40) in unearned premium to TIG.

105. From on or about January 27, 2010, to on or about November 23, 2010, TIG's account with Prime Rate received approximately fifty-three thousand, nine hundred thirty-two dollars and eighty-five cents ($53,932.85) in credits and approximately sixty-five thousand, four hundred eighteen dollars and forty-five cents ($65,418.45) in debits.

106. On or about August 16, 2010, to the present, TIG had a contractual and fiduciary duty to remit approximately eleven thousand, four hundred eighty-five dollars and sixty cents ($11,485.60) to Prime Rate following the cancellation of CMP's trucking insurance policies.

107. On or about August 16, 2010, to the present, TIG knowingly failed to remit approximately eleven thousand, four hundred eighty-five dollars and sixty cents ($11,485.60) to Prime Rate.

108. Despite TIG's misappropriation of CMP's financing funds, CMP paid approximately thirty-one thousand, seven hundred three dollars and seventy-two cents ($31,703.72) to Prime Rate for its premium financing.

109. After accounting for the total amount of money retained by TIG, minus the payments made by TIG and the amount owed to Prime Rate, TIG knowingly failed to remit seventeen thousand, six hundred fifty-five dollars and ninety cents ($17,655.90) to CMP and endangered the financial solvency of CMP's business.

Renew-A-Cart

110. TIG's client, Renew-A-Cart ("RAC"), obtained a trucking insurance policy through TIG, but, instead of financing the necessary funds for this policy, RAC agreed to pay the policy out of pocket through TIG.

111. On or about August 14, 2012, TIG received approximately three thousand, seven hundred forty-three dollars and fifty cents ($3,743.50) from RAC as a payment for RAC's trucking insurance policy.

112. On or about October 24, 2012, TIG received approximately two thousand, five hundred five dollars and sixty-six cents ($2,505.66) from RAC as a payment for RAC's trucking insurance policy.

113. On or about November 11, 2012, RAC's insurance coverage was cancelled due to non-payment. On or about November 11, 2012, TIG remitted approximately three thousand, eight hundred ninety-three dollars and twenty-four cents ($3,893.24) to wholesaler RPS Rollins Insurance on behalf of RAC as payment for RAC's insurance policy.

114. From on or about November 11, 2012, to the present, following RAC's policy cancellation, TIG held an approximate total of two thousand, seven hundred twenty-two dollars

and ninety-five cents ($2,722.95) initially given to TIG for the purpose of funding RAC's trucking insurance policy.

115. From on or about November 11, 2012, to the present, TIG had a contractual and fiduciary duty to remit approximately two thousand, seven hundred twenty-two dollars and ninety-five cents ($2,722.95) to RAC following the cancellation of RAC's trucking insurance policy on November 11, 2012.

116. From on or about November 11, 2012, to the present, TIG knowingly failed to remit approximately two thousand, seven hundred twenty-two dollars and ninety-five cents ($2,722.95) to RAC.

117. Respondent Jacoway admitted to owing RAC at least three hundred dollars ($300.00); however, he is about two thousand, four hundred twenty-two dollars and ninety-five cents ($2,422.95) short in his calculation.

Fidelity Janitorial Services

118. In or about September 2011, TIG received approximately four thousand, six hundred thirty-four dollars ($4,634.00) from its client, Fidelity Janitorial Services ("Fidelity"), as a worker's compensation coverage premium payment. Accident Insurance Company was the insurance carrier and AUI was the MGA in this transaction. Although Fidelity had paid TIG in full for the annual policy, TIG wrongfully subjected Fidelity to five notices of policy cancellation for failing to timely remit premium payments to either Accident Insurance Company or AUI.

119. TIG made a series of late remittal premium payments to Accident Insurance Company on behalf of its client, Fidelity, as payment for Fidelity's worker's compensation coverage. On or about September 22, 2011, TIG remitted approximately seven hundred nineteen

dollars and fifty cents ($719.50) to AUI. On or about October 26, 2011, TIG remitted approximately four hundred seventy-two dollars and twenty-seven cents ($472.27) to AUI. On or about November 28, 2011, TIG remitted approximately four hundred forty-seven dollars and twenty-seven cents ($447.27) to AUI. On or about December 2, 2011, Fidelity authorized the payment of approximately four hundred seventy-two dollars and twenty-seven cents ($472.27) to AUI. On or about January 30, 2012, TIG remitted approximately four hundred seventy-two dollars and twenty-seven cents ($472.27) to AUI.

120. On or about March 4, 2012, TIG wrongfully refused to remit nine hundred nineteen dollars and fifty-four cents ($919.54) to AUI which resulted in Fidelity's worker's compensation insurance policy cancelling with a cancellation effective date of March 16, 2012.

121. On or about September 25, 2012, Fidelity filed a complaint against TIG with the South Carolina Department of Insurance requesting payment of two thousand, one hundred ninety dollars and forty-two cents ($2,190.42).

122. On or about September 25, 2012, after receiving notice of Fidelity's South Carolina Department of Insurance complaint, TIG remitted approximately one thousand, four hundred sixteen dollars and eighty cents ($1,416.80) to Fidelity, which was in turn remitted to AUI.

123. From on or about September 25, 2012, to the present, following Fidelity's policy cancellation, TIG wrongfully withheld an approximate total of eight hundred eleven dollars and sixty-two cents ($811.62), which should have been given to AUI for the purpose of funding Fidelity's worker's compensation coverage policy. AUI graciously adjusted this amount off of the premium balance owed by Fidelity. Respondents erroneously argued that the money in dispute was due to some sort of worker's compensation audit.

Debrich, LLC

124. On or about January 2012, TIG secured trucking insurance policies through BankDirect Capital Finance ("BankDirect") for Debrich, LLC's ("Debrich") trucking insurance policies with Knightbrook Insurance Company/Commerce Protective Insurance Company ("Knightbrook").

125. On or about March 22, 2012, Debrich's trucking insurance policies with Knightbrook were cancelled.

126. Instead of returning the funds owed to Debrich's financer, BankDirect, Knightbrook mistakenly sent return premiums to TIG upon the cancellation of Debrich's, trucking insurance policies.

127. When Knightbrook mistakenly sent return premiums to TIG for Debrich's cancelled trucking insurance policies, approximately sixteen thousand, five hundred twenty-nine dollars and eighty-six cents ($16,529.86) were owed to BankDirect on the financing TIG obtained on behalf of Debrich.

128. From on or about March 22, 2012, to the present, upon the cancellation of Debrich's trucking insurance policies and credit issuance to TIG, TIG had a contractual and fiduciary duty to remit approximately sixteen thousand, five hundred twenty-nine dollars and eighty-six cents ($16,529.86) to BankDirect.

129. From on or about March 22, 2012, to the present, TIG knowingly failed to remit approximately sixteen thousand, five hundred twenty-nine dollars and eighty-six cents ($16,529.86) to BankDirect.

Chancelor Transportation

130. On or about August 27, 2011, TIG received approximately twenty thousand, eight hundred forty dollars ($20,840.00) from Chancelor Transportation ("Chancelor") as payment in full for Chancelor's annual trucking insurance policy with Accident Insurance Company.

131. TIG never remitted any funds to wholesaler AUI or the carrier as required under this policy.

132. On or about November 17, 2011, Chancelor's insurance coverage with Accident was cancelled due to non-payment as a result of TIG's wrongful refusal to remit Chancelor's premium payment to Accident Insurance Company.

133. On or about November 23, 2011, TIG obtained a replacement trucking insurance policy on behalf of Chancelor with Progressive Insurance Company ("Progressive").

134. On or about November 23, 2011, TIG remitted approximately three hundred fifty-seven dollars and ninety cents ($357.90) to Progressive on behalf of Chancelor as payment for Chancelor's trucking insurance policy.

135. After on or about November 23, 2011, TIG did not remit any other funds to Progressive for this trucking insurance policy for Chancelor.

136. On or about January 8, 2012, Chancelor's insurance coverage with Progressive was cancelled due to non-payment.

137. On or about January 8, 2012, to the present, following Chancelor's policy cancellation, TIG held an approximate total of twenty thousand, four hundred eighty-two dollars and ten cents ($20,482.10), which was given to TIG for the purpose of funding Chancelor's trucking insurance policies.

138. From on or about January 2012, to the present, TIG had a contractual and fiduciary duty to remit twenty thousand, four hundred eighty-two dollars and ten cents ($20,482.10) to Chancelor following the cancellation of Chancelor's trucking insurance policies on or about November 17, 2011, and on or about January 8, 2012.

139. From on or about January 2012, to the present, TIG knowingly failed to remit approximately twenty thousand, four hundred eighty-two dollars and ten cents ($20,482.10) to Chancelor.

140. On April 18, 2012, Ms. Clovis Chancelor, the owner of Chancelor Transportation wrote a letter to the Mississippi Insurance Department to complain about TIG's misappropriation of Chancelor's premium payment.

141. Respondents erroneously argued that the alleged debts owed by Ms. Chancelor's sons should be used as an offset against other, unrelated policies and as an affirmative defense to abrogate their duty to properly remit premium due and owing to the insurance carriers. Pursuant to Ms. Chancelor's written correspondence to Respondent Jacoway on August 22, 2012, any debts or accounts that TIG had with her sons were considered separate accounts and should have been handled separately. Furthermore, Respondents' argument that alleged debts owed by Ms. Chancelor's sons should be considered as an offset holds no weight when considering Respondents' duty to properly remit Chancelor's premium payments to AUI.

V&L Trucking

142. On or about April 21, 2010, TIG received approximately six thousand, four hundred eighty-nine dollars ($6,489.00) from Prime Rate for financing a trucking insurance policy on behalf of TIG's client, V&L Trucking ("V&L"). These funds represent a year's worth of premium financing for V&L's insurance policies with Northland Insurance Company. V&L

ultimately received an approximate total of eleven months of insurance coverage from Northland Insurance Company.

143. On or about April 21, 2010, TIG received approximately one thousand, six hundred twenty-three dollars ($1,623.00) from V&L as a down-payment for V&L's trucking insurance policy.

144. In total, TIG received approximately eight thousand, one hundred twelve dollars ($8,112.00) for the purpose of paying for V&L's trucking insurance policy.

145. On or about June 15, 2010, TIG remitted approximately seven thousand, three hundred dollars ($7,300.00) to wholesaler J.M. Wilson on behalf of V&L as payment for V&L's trucking insurance policy.

146. On or about February 14, 2011, V&L's trucking insurance policy was cancelled with an effective date of March 10, 2011. V&L's trucking insurance policy was cancelled due to its failure to make installment payments to Prime Rate.

147. On or about May 4, 2011, J.M. Wilson refunded the remaining V&L trucking insurance policy unearned premium in the amount of approximately nine hundred seventy-eight dollars and thirty cents ($978.30) to TIG.

148. From on or about May 10, 2011, to the present, following V&L's policy cancellation, TIG held an approximate total of one thousand, seven hundred ninety dollars and thirty cents ($1,790.30), which was given to TIG for the purpose of funding V&L's trucking insurance policy.

149. From on or about April 21, 2010, to on or about May 24, 2011, TIG's account with Prime Rate received approximately seven thousand, six hundred forty-nine dollars and ninety-six cents ($7,649.96) in credits and eight thousand, four hundred forty-six dollars

($8,446.00) in debits, thus obligating TIG to pay Prime Rate approximately seven hundred ninety-six dollars and four cents ($796.04).

150. From on or about May 10, 2011, to the present, TIG had a contractual and fiduciary duty to remit approximately seven hundred ninety-six dollars and four cents ($796.04) to Prime Rate following the cancellation of V&L's trucking insurance policy on May 10, 2011.

151. From on or about May 10, 2011, to the present, TIG knowingly failed to remit approximately seven hundred ninety-six dollars and four cents ($796.04) to Prime Rate.

152. From on or about May 10, 2011, to the present, TIG had a fiduciary duty to remit approximately nine hundred ninety-four dollars and twenty-six cents ($994.26) to V&L following the cancellation of V&L's trucking insurance policy.

153. From on or about May 10, 2011, to the present, TIG knowingly failed to remit approximately nine hundred ninety-four dollars and twenty-six cents ($994.26) to V&L.

Arguments Concerning STU Overbilling

154. Respondents made several arguments concerning alleged overbilling practices by STU. It is **DETERMINED** that the testimony of Steve Nafe and Barbara Wilson dispelled these arguments. Ms. Wilson provided numerous invoices and documents showing the accounting of TIG's failure to pay premium on several accounts. Respondents chief complaints about STU were its billing practices on improperly charged cargo and not properly classifying endorsements on certain policies.

155. Steve Nafe testified extensively concerning the insurance policy application taking process and the process used to either add or delete an endorsement or to cancel any given policy. There are processing times to consider as well as state and federal laws. Furthermore, policy reinstatements affect any given cancellation date. Lastly, Mr. Nafe is not an expert on the

law for filing requirements. He processed filings based upon the information he received from each insured's application.

156. Moreover, in each of the charged transactions alleged by the Division in this case the insured was given ample timely notice of the billing of their insurance policy and accepted that billing. TIG conveniently argued over-billing months after the initial quoted billing was rendered and accepted by TIG and the insured. Any argument concerning alleged over-billing is unfounded because none of the insureds directly expressed any concerns about over-billing from STU. Accordingly, any issue of over-billing has long been waived by the insureds.

CONCLUSIONS OF LAW

1. In accordance with Tennessee Compilation Rules and Regulations 1360-04-01-.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. At all times relevant hereto, 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 each violation occurring prior to July 1, 2011, Tenn. Code Ann. § 56-2-305 (2008) states in pertinent part:

(a) If . . . 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 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), 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 subsection (a)(2) shall not apply where a statute or rule specifically provides for other civil penalties for the violation. For purposes of this subsection (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.

(b) In determining the amount of penalty to assess under this section, or in determining whether the violation was a knowing violation for the purpose of subdivision (a)(2), the commissioner shall consider any evidence relative to the following criteria:

(1) Whether the insurer, person, or entity could reasonably have interpreted its 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) Whether the amount imposed would put the violator in a hazardous financial condition;

(4) The circumstances leading to the violation;

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

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

(7) The interest of the public; and

(8) The insurer's, person's, or entity's efforts to cure the violation.

4. 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.

5. It is **CONCLUDED** that the Division has met its burden of proof by a preponderance of the evidence that Respondents: 1) used fraudulent and dishonest practices; 2) demonstrated incompetence; and 3) demonstrated untrustworthiness and financial irresponsibility in the conduct of business in Tennessee. Furthermore, Respondents improperly withheld, misappropriated, and converted money received in the course of doing insurance business in violation of Tenn. Code Ann. §§ 56-6-112(a)(4) and 56-6-112(a)(8) by engaging in 20 Counts from on or about September 13, 2010, to on or about November 11, 2012.

6. Respondents' violations of law were knowingly and intentionally effectuated by Respondents for the purpose of obtaining ill-gotten commissions and premium payments. Respondents violations of the Law are detailed as follows:

Count One. Wrongfully failing to remit approximately forty-four thousand, two hundred ninety two dollars and twenty-five cents ($44,292.25) to Prime Rate following the cancellation of Downs' trucking insurance policies, as of on or about December 13, 2010;

Count Two. Wrongfully failing to remit approximately thirty-seven thousand, nine hundred twenty-three dollars and twenty-seven cents ($37,923.27) to Prime Rate following the cancellation of Fitch Express' trucking insurance policies, as of on or about December 30, 2010, and on or about January 14, 2011;

Count Three. Wrongfully failing to remit approximately six thousand, five dollars and forty-six cents ($6,005.46) to Southern Trace Underwriters following the cancellation of Fitch Express' trucking insurance policies, as of on or about January 14, 2011;

Count Four. Wrongfully failing to remit approximately thirty-five thousand nine hundred eighty-two dollars ($35,982.00) to Prime Rate following the cancellation of Fitch Brother's trucking insurance policies, as of on or about October 22, 2010;

Count Five. Wrongfully failing to remit approximately twenty thousand, four hundred thirteen dollars and ninety cents ($20,413.90) to Prime Rate following the cancellation of Tidwell's trucking insurance policies, after on or about January 10, 2011;

Count Six. Wrongfully failing to remit approximately five thousand, nine hundred ninety dollars ($5,990.00) to Prime Rate following the cancellation of D&S's trucking insurance policies, after on or about January 10, 2011;

Count Seven. Wrongfully failing to remit approximately thirty-two thousand, seven hundred fifty-seven dollars and forty cents ($32,757.40) to Imperial following the cancellation of New America's trucking insurance policies, as of on or about April and May 2011;

Count Eight. Wrongfully failing to remit approximately eighteen thousand, one hundred thirty dollars and sixty-five cents ($18,130.65) to Prime

Rate following the cancellation of Beltana's Prime Rate-financed trucking insurance policies, as of on or about February 22, 2011;

Count Nine. Wrongfully failing to remit approximately nineteen thousand, three hundred fifty-nine dollars ($19,359.00) to Southern Trace Underwriters following the cancellation of Beltana's Prime Rate-financed trucking insurance policies, as of on or about February 15, 2011;

Count Ten. Wrongfully failing to remit approximately thirty-seven thousand, thirty-four dollars and thirty-five cents ($37,034.35) to Beltana following the cancellation of Beltana's Prime Rate-financed trucking insurance policies, as of on or about February 22, 2011;

Count Eleven. Wrongfully failing to remit approximately forty-eight thousand, ninety-one dollars and sixty-nine cents ($48,091.69) to Imperial following the cancellation of Beltana's Imperial-financed trucking insurance policies, as of on or about April 12, 2011;

Count Twelve. Wrongfully failing to remit approximately three thousand, two hundred sixteen dollars and twenty-one cents ($3,216.21) to Beltana following the cancellation of Beltana's Imperial-financed trucking insurance policies, as of on or about April 12, 2011;

Count Thirteen. Wrongfully failing to remit approximately eleven thousand, four hundred eighty-six dollars and sixty cents ($11,485.60) to Prime Rate following the cancellation of CMP's trucking insurance policies, as of on or about August 16, 2010;

Count Fourteen. Wrongfully failing to remit approximately seventeen thousand, six hundred fifty-five dollars and ninety cents ($17,655.90) to CMP following the cancellation of CMP's trucking insurance policies, as of on or about August 16, 2010.

Count Fifteen. Wrongfully failing to remit approximately two thousand, seven hundred twenty-two dollars and ninety-five cents ($2,722.95) to RAC following the cancellation of RAC's trucking insurance policy, as of on or about November 11, 2012;

Count Sixteen. Wrongfully failing to remit approximately eight hundred eleven dollars and sixty-two cents ($811.62) to AUI following the cancellation of Fidelity's worker's compensation coverage policy, as of on or about March 16, 2012;

Count Seventeen. Wrongfully failing to remit approximately sixteen thousand, five hundred twenty-nine dollars and eighty-six cents ($16,529.86) to BankDirect following the cancellation of Debrich's trucking insurance policy, as of on or about March 22, 2012;

Count Eighteen. Wrongfully failing to remit approximately twenty thousand, four hundred eighty-two dollars and ten cents ($20,482.10) to Chancelor following the cancellation of Chancelor's trucking insurance policy, as of on or about December, 2011.

Count Nineteen. Wrongfully failing to remit approximately seven hundred ninety-six dollars and four cents ($796.04) to Prime Rate following the

cancellation of V&L's insurance policy, as of on or about May 10, 2011; and

Count Twenty. Wrongfully failing to remit approximately nine hundred ninety-four dollars and twenty-six cents ($994.26) to V&L following the cancellation of V&L's insurance policy, as of on or about May 10, 2011;

It is therefore **ORDERED** that the insurance producer licenses of Respondents: James William Bible, numbered 904563; and Michael Grady Jacoway, numbered 778110; be **REVOKED**, and that they each pay a total civil monetary penalty of **two hundred fifty thousand dollars ($250,000.00),** plus the Division's court reporter costs and litigation costs, pursuant to Tenn R. Civ. P. 54.04. This penalty is assessed as follows:

Respondent Bible is assessed a civil penalty of one hundred fifty thousand dollars ($150,000.00) for Counts 1 – 14, 19, and 20 pursuant to Tenn. Code Ann. § 56-2-305 (2008);

Respondent Bible is assessed a civil penalty of one hundred thousand dollars ($100,000.00) for Counts 15 – 18 pursuant to Tenn. Code Ann. § 56-6-112(g) (2011);

Respondent Jacoway is assessed a civil penalty of one hundred fifty thousand dollars ($150,000.00) for Counts 1 – 14, 19, and 20 pursuant to Tenn. Code Ann. § 56-2-305 (2008);

Respondent Jacoway is assessed a civil penalty of one hundred thousand dollars ($100,000.00) for Counts 15 – 18 pursuant to Tenn. Code Ann. § 56-6-112(g) (2011);

Respondent TIG is assessed a civil penalty of one hundred fifty thousand dollars ($150,000.00) for Counts 1 – 14, 19, and 20 pursuant to Tenn. Code Ann. § 56-2-305 (2008);

Respondent TIG is assessed a civil penalty of one hundred thousand dollars ($100,000.00) for Counts 19 – 20 pursuant to Tenn. Code Ann. § 56-6-112(g) (2011);

These penalties are assessed due to Respondents' continuing violation of Tenn. Code Ann. §§ 56-6-112(a)(4), and (8) and their failure to properly remit premium funds to correct their continuing violations of law.

Respondents shall have one year from execution of this Initial Order to pay the above-mentioned civil monetary penalty, plus the Division's court reporter and litigation costs.

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 7th day of November 2016.

Mattielyn B. Williams
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 8TH day of November 2016.

J. Richard Collier
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.