



State of Tennessee
Department of State
Administrative Procedures Division
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Nashville, Tennessee 37243-1102
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AUG 4 2017

DEPT. OF COMMERCE AND INSURANCE
LEGAL OFFICE

August 2, 2017

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

Scott Rolin
Register No. #10456-075
USP McCreary
P.O. Box 3000
Pine Knot, KY 42635

Jesse D. Joseph, Esq.
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Tennessee Department of Commerce and
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Office of Legal Counsel
8th Floor, Davy Crockett Tower
500 James Robertson Parkway
Nashville, TN 37243-0569

RE: In the Matter of: Scott Rolin

Docket No. 12.04-143379J

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

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure

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

IN THE MATTER OF:

SCOTT ROLIN

DOCKET NO. 12.04-143379J

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 **August 17, 2017**.

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 THE
TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE**

IN THE MATTER OF:

**TENNESSEE INSURANCE DIVISION,
Petitioner,**

v.

**SCOTT ROLIN,
Respondent.**

**DOCKET NO: 12.04-143379J
TID NO: 17-011**

INITIAL ORDER

This contested case was heard on May 16, 2017, before Administrative Judge Elizabeth D. Cambron, assigned by the Secretary of State, Administrative Procedures Division, to sit for the Commissioner of the Tennessee Department of Commerce and Insurance. The Petitioner was represented by Assistant General Counsel Jesse D. Joseph. The Respondent, Mr. Scott Rolin, appeared by telephone for the hearing. The Respondent waived his right to an attorney and proceeded without legal representation.

FINDINGS OF FACTS

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

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

3. The Respondent holds a valid Tennessee resident insurance producer license, number 0727396, which became active on or about March 17, 1992, and which expired on January 31, 2017.

4. The Respondent's address of record with the Division is 7031 Penbrook Drive, Franklin, Tennessee 37069. However, on or about February 27, 2017, the Respondent began serving a federal term of imprisonment for eighteen months. The Respondent's current mailing address is Register No. 10456-075, USP McCreary, P.O. Box 3000, Pine Knot, KY 42635.

5. Between 2001 and 2015, the Respondent owned and operated Steele Rolin Co., an insurance agency based in Franklin, Tennessee.

6. The Respondent has known Julia Dixon of Hermitage, Tennessee, for nearly 25 years. Ms. Dixon is 82 years old and is a retiree of the United State Postal Service. For much of that time as her agent, the Respondent has handled this elderly client's life and casualty insurance needs.

7. In 2010, the Respondent sold two annuity policies to Ms. Dixon, who paid premiums in the approximate amount of \$175,000.00 to secure these policies. The Respondent exercised control in a fiduciary capacity over these policies through a power of attorney that Ms. Dixon granted him in September 2010.

8. Between 2011 and 2015, the Respondent made numerous withdrawals from the aforementioned annuity policies owned by Ms. Dixon, without her knowledge or permission.

9. The Respondent initiated these unauthorized withdrawals by faxing requests for disbursement to the insurer via interstate wire. The Respondent faxed one such request from Tennessee to Nebraska on November 21, 2012. Further, the Respondent forged Ms. Dixon's

signatures on the endorsement portion of checks that were issued as a result of his requests for disbursement.

10. The Respondent deposited approximately \$44,600.00 in Ms. Dixon's funds obtained from these annuity policies into his personal checking account, and deposited approximately \$7,000.00 from these policies into a Steele Rolin Co. business account.

11. The Respondent used funds derived from Ms. Dixon's annuity policies which were deposited into his personal account in order to pay various personal expenses, without Ms. Dixon's knowledge or permission.

12. Based on the Respondent's actions as set forth above, the intended loss to Ms. Dixon as the victim associated with the Respondent's scheme was at least \$51,600.00.

13. On September 14, 2016, the U.S. Attorney for the Middle District of Tennessee filed a one count Information against the Respondent charging him with wire fraud in violation of 18 U.S.C. § 1343 regarding his actions as detailed above.

14. The Respondent and the government entered into a Plea Agreement filed on October 21, 2016, in which the Respondent pled guilty to Count One of this Information.

15. The Respondent did not report this federal criminal prosecution to the Commissioner of the Tennessee Department of Commerce and Insurance within 30 days after his initial pretrial hearing date, nor did he ever make such a report.

16. On January 27, 2017, the U.S. District Court for the Middle District of Tennessee imposed its judgment for conviction against the Respondent and sentenced him to 18 months of imprisonment followed by three years of supervised release for this felony offense. Additionally, the Court ordered the Respondent within this Judgment to pay a \$100.00

assessment, and to pay \$71,504.15 in restitution to Ms. Dixon, which was the amount of her total loss.

17. The Respondent's wire fraud conviction is a "criminal felony involving dishonesty" pursuant to 18 U.S.C. §1033(c)(1)(A), and a person with such a conviction is prohibited from engaging in business of insurance under 18 U.S.C. § 1033(e)(2) and TENN. CODE ANN. § 56-53-106(b)(1), unless the person has the written consent of, or a waiver granted by the Commissioner as the appropriate insurance regulatory official in Tennessee.

18. The Commissioner has not granted the Respondent any waiver or written consent to engage in the business of insurance in Tennessee.

CONCLUSIONS OF LAW

1. In accordance with TENN. COMP. R. & REG. 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. TENN. CODE ANN. § 56-6-112 provides:

(a) The commissioner may place on probation, suspend, revoke or refuse to issue or renew a license issued under this part or may levy a civil penalty in accordance with this section or take any combination of those actions, for any one (1) or more of the following causes:

- (1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;
- (2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;
- (3) Obtaining or attempting to obtain a license through misrepresentation or fraud;
- (4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
- (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
- (6) Having been convicted of a felony;

- (7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;
- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
- (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;
- (10) Forging another's name to an application for insurance or to any document related to an insurance transaction;
- (11) Improperly using notes or any other reference material to complete an examination for an insurance license;
- (12) Knowingly directing any person to submit an application for health care benefits through the TennCare program at a time when the person is covered by a group policy or when the policy is being renewed, and then quoting a rate for a group health insurance policy if the insurance producer knows the person would otherwise have been eligible to participate or continue participation in the group policy;
- (13) Knowingly accepting insurance business from an individual who is not licensed;
- (14) Selling, soliciting or negotiating insurance for a company that is not authorized to transact the business of insurance in this state; and
- (15) Violating the unfair trade practices as enumerated in § 56-6-125.

(b) Any action by the commissioner to put on probation, suspend, revoke or deny the renewal of a license pursuant to this section shall be governed by the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(c) In the event that the action by the commissioner is to deny an application for a license, the commissioner shall notify the applicant and advise, in writing, the applicant of the denial of the applicant's application within thirty (30) days.

(d) The license of a business entity may be suspended or revoked if the commissioner finds, after a hearing, that an individual licensee's violation was known or should have been known by one (1) or more of the partners, officers or managers acting on behalf of the partnership or corporation and the violation was neither reported to the commissioner nor corrective action taken.

(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.

(f) The commissioner may serve a notice or order in any action arising under this part by registered or certified mail to the insurance producer or applicant at the address of record in the files of the department. Notwithstanding any law to the contrary, service in the manner set forth in this subsection (f) shall be deemed to constitute actual service on the insurance producer or applicant.

(g) If, after providing notice consistent with the process established by § 4-5-320(c), and providing the opportunity for a contested case hearing held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, 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 subdivision (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.

TENN. CODE ANN. § 56-6-112.

- 3. Pursuant to TENN. CODE ANN. § 56-6-119(b):

Within thirty (30) days of the initial pretrial hearing date, a producer shall report to the commissioner any criminal prosecution of the producer taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

- 4. TENN. CODE ANN. § 56-53-106(b)(1) provides:

A person convicted of a felony involving dishonesty or breach of trust shall not participate in the business of insurance unless a waiver is granted by the commissioner.

- 5. 18 U.S.C. § 1033(e) states as follows:

(1)(A) Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(B) Any individual who is engaged in the business of insurance whose activities affect interstate commerce and who willfully permits the participation described in subparagraph (A) shall be fined as provided in this title or imprisoned not more than 5 years, or both.

(2) A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection.

- 6. The Division has shown by a preponderance of the evidence that the Respondent violated the insurance laws of Tennessee in violation of TENN. CODE ANN. § 56-6-112(a)(2).

7. The Division has shown by a preponderance of the evidence that the Respondent violated TENN. CODE ANN. § 56-6-112(a)(6) in that he was convicted of felony wire fraud in violation of 18 U.S.C. § 1343.

8. The Department has proven by a preponderance of the evidence that the Respondent committed fraud in the conduct of the insurance business in Tennessee in violation of TENN. CODE ANN. § 56-6-112 (a)(7) and (8).

9. The Department has proven by a preponderance of the evidence that the Respondent forged Ms. Dixon's signature on the endorsement portion of insurance company checks in violation of TENN. CODE ANN. § 56-6-112(a)(10).

10. The Department has shown by a preponderance of the evidence that the Respondent failed to report the federal criminal prosecution against him to the Commissioner in violation of TENN. CODE ANN. § 56-6-119(b).

11. It is determined that the proof adduced at the hearing provides adequate grounds for the revocation of the Respondent's Tennessee insurance producer license.

12. It is determined that the proof adduced at the hearing provides adequate grounds for the imposition of a five thousand dollar (\$5,000.00) civil penalty for violation of TENN. CODE ANN. § 56-6-112(a)(2), (6), (7), (8), and (10) and TENN. CODE ANN. § 56-1-119(b).

13. Based on the factors of TENN. CODE ANN. § 56-6-112(h), it is determined that a five thousand dollar (\$5,000.00) civil penalty is appropriate because the Respondent could not have reasonably interpreted his actions to be in compliance with his obligations under the insurance industry's rules and regulations; the amount will be a substantial economic deterrent, particularly in light of the fact that he also has to pay restitution under the federal plea

agreement; and this was a severe violation from which the Respondent gained substantial economic benefit.

14. TENN. R. CIV. P. 54.04(1) and TENN. COMP. R. & REG. 1360-04-01-.01(3) allow for the imposition of costs as follows:

Costs included in the bill of costs prepared by the clerk shall be allowed to the prevailing party unless the court otherwise directs, but costs against the state, its officers, or its agencies shall be imposed only to the extent permitted by law.

TENN. R. CIV. P. 54.04(1).

15. It is determined that the hearing costs incurred by the Division to the Administrative Procedures Division of the Secretary of State, and to the court reporter in this matter, should be assessed against the Respondent.

JUDGMENT

WHEREFORE, it is hereby **ORDERED, ADJUDGED, AND DECREED** as follows:

1. The Respondent's Tennessee insurance producer license (No. 0727396) is hereby **REVOKED**, due to his actions in violation of TENN. CODE ANN. §§ 56-6-112(a)(2), (6), (7), (8), and (10) and TENN. CODE ANN. § 56-1-119(b).

2. The Respondent is **ASSESSED a total of \$5,000.00 in civil penalties**, computed as follows:

- a. **One \$1,000.00 penalty** for violating Tennessee insurance law in violation of TENN. CODE ANN. §§ 56-6-112(a)(2);
- b. **One \$1,000.00 penalty** for having been convicted of a felony in violation of TENN. CODE ANN. § 56-6-112(a)(6);
- c. **One \$1,000.00 penalty** for committing insurance unfair trade practice or fraud, and using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of the insurance business in violation of TENN. CODE ANN. § 56-6-112(a)(7) and (8);
- d. **One \$1,000.00 penalty** for forging Ms. Dixon's signature in violation of TENN. CODE ANN. § 56-6-112(a)(10);
- e. **One \$1,000.00 penalty** for failing to report his federal criminal prosecution to the Commissioner in violation of TENN. CODE ANN. § 56-1-119(b).

The Respondent shall pay this civil penalty to the Department of Commerce and Insurance within two (2) years of the entry date of this Initial Order.

3. The Respondent, and any and all persons who may assist him in any of the aforementioned violations of TENN. CODE ANN. § 56-6-112, **shall CEASE and DESIST** from any such activities.

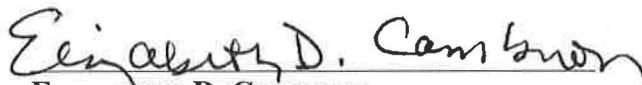
4. The Division shall file its Itemized Assessed Bill of Costs including the Administrative Procedures Division costs, and those of the court reporter, within fifteen (15) days after the filing of the Initial Order in this matter, and said costs are hereby incorporated within this Initial Order.

5. The Respondent is **ASSESSED all hearing costs** incurred in this matter pursuant to TENN. R. CIV. P. 54.04(1) and TENN. COMP. R. & REG. 1360-04-01-.01(3), and shall pay these costs within two (2) years after the State files and serves Respondent with its Itemized Assessed Bill of Costs.


6. This Initial Order shall take effect upon filing with the Administrative Procedures Division of the Office of the Secretary of State.

It is so ORDERED.

Entered and effective this the 2ND day of AUGUST, 2017.


ELIZABETH D. CAMBRON
ADMINISTRATIVE JUDGE
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

Filed in the Administrative Procedures Division, Office of the Secretary of State, this the 2ND day of AUGUST, 2017.


J. RICHARD COLLIER, DIRECTOR
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

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.