

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

**TENNESSEE INSURANCE DIVISION,**

**Petitioner,**

**vs.**

**WILLIAM JOHN STATILE,**

**Respondent.**

**APD No.: 12.01-139098J**

**TID No.: 16-064**

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**INITIAL ORDER**

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This matter was heard on December 5, 2016, in Nashville, Tennessee before Rob Wilson, Administrative Law Judge, assigned by the Secretary of State, Administrative Procedures Division, to sit for the Commissioner of the Tennessee Department of Commerce and Insurance ("Commissioner"). Charles S. Herrell, Assistant General Counsel, represented the Petitioner, the Tennessee Insurance Division ("Division"), in this matter. William John Statile ("Respondent") was not present nor was an attorney present on his behalf.

**NOTICE OF DEFAULT**

Pursuant to Tenn. Code Ann. § 4-5-307, on September 6, 2016, the Petitioner filed a Notice of Hearing and Charges. Subsequently this matter was set for a hearing on December 5, 2016. The named Respondent in the Notice of Hearing and Charges is William John Statile ("Statile"). At the hearing, the Petitioner moved for a default against the Respondent pursuant to Tenn. Code Ann. § 4-5-309.

In support of the motion for default, the Petitioner presented evidence demonstrating that the Respondent was on notice of the proceedings against him and was served with a copy of the

Notice of Hearing and Charges, based on the following exhibits admitted into evidence and representations of counsel for the Petitioner:

1. A copy of the United States Postal Service certified mail return receipt cards for the letter from counsel for the Petitioner and sent to Statile (receipt no. 70041350000261482151) of this administrative action, issued pursuant to Tenn. Code Ann. § 4-5-320(c).

2. A copy of the United States Postal Service certified mail return receipt cards for the Notice of Hearing and Charges sent to Statile (receipt no. 70132630000147401496).

Service upon the Respondent was legally sufficient in accordance with Tenn. Code Ann. § 4-5-307 And Tenn. Comp. R. & Regs. ("Rule") 1360-04-01-.06.

It is determined that Petitioner properly served the Notice of Hearing and Charges on the Respondent in accordance with Rule 1360-04-01-.06. Based on the failure of the Respondent to appear for the hearing, pursuant to Tenn. Code Ann. § 4-5-309 And Rule 1360-04-01-.15, the Respondent was held in default. Pursuant to Rule 1360-04-01-.15(2)(b), the hearing was held on an uncontested basis.

#### **FINDINGS OF FACT**

1. Respondent is a resident of Memphis, Shelby County, Tennessee. However, his mailing address of record is 960 Canterbury Place, Suite 110, Escondido, California 92025 (Licensee summary, Exhibit 1.)

2. The Respondent maintains a current residence address of 3717 Merritt Street, Memphis, TN 38128-3750. (USPS return receipt, Exhibit 3.)

3. On or about March 10, 2016, the Tennessee Insurance Division ("TID") received a complaint from a Tennessee insurance consumer alleging that the Respondent engaged in forgery, fraud, and misrepresentation of material facts in the sale to her of an annuity product. (Exhibit 7.)

4. The TID introduced into evidence documentation in the form of an affidavit alleging that signatures and initials of the Complainant on a series of documents related to an application for an annuity product were in fact forged.

5. The information contained in the aforementioned affidavit of the Complainant and the associated facts resulted in the termination of the appointment of the Respondent by American Equity Investment Life Insurance Company, for cause.

6. The TID introduced into evidence the sworn statement of the Complainant in which she stated that the Respondent held himself out to her as an attorney and that the attorney-client privilege would attach to their discussions.

7. The TID introduced into evidence records of the State Bar of California indicating that the Respondent had been an attorney in that state at one time, but that his current status was “resigned with charges pending”, indicating that he was no longer a member of the California Bar.

8. Official Notice has been taken of the voluntary surrender of the Respondent’s insurance producer license.

9. Official Notice is taken of Tenn. Code Ann. § 56-6-112(e) which provides that the Commissioner of the Department of Commerce and Insurance may revoke an insurance producer license even if it has been voluntarily surrendered.

10. Official Notice is taken of the voluntary bankruptcy petition of the Respondent under Chapter 13 of the federal Bankruptcy Code.

#### **CONCLUSIONS OF LAW**

1. In accordance with Tenn. Comp. Rules & Regs. 1360-04-01-.02(7) and 1360-04-01-.15(3), the Petitioner has shown by a preponderance of evidence that the facts alleged in the Notice of

Hearing And Charges pertaining to Respondent William Statile are true and that the issues raised therein should be resolved in its favor.

2. Although the Court recognizes that Respondent voluntarily surrendered his insurance producer license prior to the commencement of this litigation, Tenn. Code Ann. § 56-6-112(e) specifically authorizes the present action and any penalty or remedy available under the Law.

3. Respondent obtained information from McKenzie by representing that he was completing an application for an annuity policy, but completed the application incorporating falsified financial information.

4. In addition to falsifying information on the application for the annuity, Respondent intentionally misrepresented to McKenzie the nature of the product offered to her and did not disclose the limited availability of her funds under an annuity.

5. The misrepresentations of the terms of the insurance product presented by Respondent to McKenzie were made in violation of Tenn. Code Ann. §§ 56-6-112(a)(5) and 56-6-112(a)(8).

6. Respondent represented himself to McKenzie as an attorney by using the abbreviation "Esq." after his written name and by affirming verbally to McKenzie that he was an attorney when in fact he resigned from the California Bar Association on August 13, 2003, with charges related to fraud and theft pending against him.

7. Respondent misrepresented to McKenzie that the personal and financial information about her that was gathered by him was not for the purposes of making an application for insurance, but rather to be used to show the effects of a proposal for a policy.

8. The misrepresentations of the terms of the insurance product presented by Respondent to McKenzie were all made in violation of Tenn. Code Ann. §§ 56-6-112(a)(5) and 56-6-112(a)(8).

9. Respondent forged McKenzie's initials in several places and finally her name on the signature line of the insurance application submitted to American Equity.

10. Both of the separate acts of forging the initials and signature of McKenzie to the fraudulent application for an insurance product by Respondent was a violation of both Tenn. Code Ann. §§ 56-6-112(a)(8) and 56-6-112(a)(10).

11. The misrepresentations made to the insurance carrier in the submission of the falsified application for insurance described above demonstrate the dishonesty and untrustworthiness of Respondent in violation of Tenn. Code Ann. § 56-6-112(a)(8).

12. The above described fraudulent, dishonest, and untrustworthy acts of Respondent described above are in violation of Tenn. Code Ann. § 56-6-126(a)(8).

13. The Petitioner has shown, by a preponderance of the evidence, that there are adequate grounds for the assessment of civil penalties against Respondent of one thousand dollars (\$1,000) for each of the violations of the Act as described above.

14. It is determined that the proof adduced at trial provides adequate grounds for the assessment of a civil penalty against Respondent in the total amount of **eleven thousand dollars** (\$11,000).

**IT IS THEREFORE, ORDERED** that:

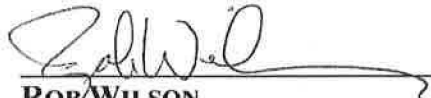
1. Respondent William John Statile shall fully **COMPLY** with the Law, and all rules promulgated thereunder.

2. Respondent's Tennessee Non-Resident Insurance Producer license, number 2258733, be **REVOKED**.


3. That the valuation of the civil penalty applicable to the Respondent be established in the amount of **eleven thousand dollars** (\$11,000).

4. All persons in any way assisting, aiding, or helping the aforementioned Respondent in any of the aforementioned violations of the Law shall **CEASE AND DESIST** all such activities.
5. The costs of this action are assessed against Respondent.
6. Respondent shall **BE PERMANENTLY BARRED** from conducting insurance related business or engaging in the practice of insurance from, in, or into the State of Tennessee.
7. This Order shall not be interpreted in any manner that is in conflict with the automatic stay provisions of 11 U.S.C. § 362 of the federal bankruptcy code.
8. This Initial Order, imposing sanctions against Respondent is entered to protect the public and consumers of insurance products in the State of Tennessee, consistent with the purposes fairly intended by policy and provisions of the Law.

This INITIAL ORDER entered and effective this the 18<sup>th</sup> day of MAY 2017.

  
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**ROB WILSON**  
**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 18<sup>th</sup> day of MAY 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, 8<sup>th</sup> Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243-1102. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

**Review of Final Order**

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

**YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER**

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.