



State of Tennessee
Department of State
Administrative Procedures Division
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September 16, 2020

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**RE: TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE V. CRYSTAL
L. THOMAS, APD Case No. 12.01-200322J**

Enclosed is an *Initial Order*, including a *Notice of Appeal Procedures*, rendered in this case.

Administrative Procedures Division
Tennessee Department of State

Enclosure(s)

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

IN THE MATTER OF:

**TENNESSEE DEPARTMENT OF
COMMERCE AND INSURANCE,**

Petitioner,

v.

CRYSTAL L. THOMAS,

Respondent.

APD Case No. 12.01-200322J

TID No. 19-015

INITIAL ORDER

This matter was heard *de novo* on August 14, 2019, in Nashville, Tennessee, before Administrative Judge Claudia Padfield, assigned by the Secretary of State, Administrative Procedures Division, to sit for the Commissioner of the Tennessee Department of Commerce and Insurance. Miles Brooks, Assistant General Counsel, represented Petitioner, the Board of Securities Division (“Division”), in this matter. Crystal Thomas (“Respondent”) was not present nor was an attorney present on behalf of Respondent. The record was closed on September 8, 2020, upon receipt of the NOTICE OF FILING OF TRANSCRIPT and the PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW submitted by the Department. The date by which an INITIAL ORDER is due is December 10, 2020.

NOTICE OF DEFAULT

Petitioner moved for default based on failure of Respondent, or a representative on her behalf, to appear at the scheduled hearing after receiving proper notice thereof. In support of the motion, Respondent was successfully served with the NOTICE OF HEARING AND CHARGES to the address of record but did not file a response. The NOTICE and subsequent Orders and correspondence were sent to Respondent without any indication that the mailings were not successfully delivered. Respondent was also in telephone and email contact with the

Department. Respondent received emails to the email address of record from the undersigned judge as well and on at least one occasion called the Administrative Procedures Division's main line.

The record indicates that service was legally sufficient in accordance with TENNESSEE CODE ANNOTATED ("TENN. CODE ANN.") §§ 4-5-307 and 62-5-105; and TENNESSEE COMPILATION RULES AND REGULATIONS ("TENN. COMP. R. & REGS.") 1360-04-01-.06 and 1360-04-01-.15(c). Respondent has failed to participate in every step of the proceedings. The Department's Motion for Default was **GRANTED**. Respondent was held in **DEFAULT** pursuant to TENN. CODE ANN. § 4-5-309, and the Department was permitted to proceed on an uncontested basis.

INITIAL ORDER

The subject of this hearing was the proposed disciplinary action of Respondent and entry of an Order assessing civil penalties against Respondent for violations of TENN. CODE ANN. § 56-6-112.

After consideration of the evidence, testimony of witnesses, arguments of counsel, and the entire record in this matter, it is determined that Respondent's acts and conduct constitute violations under TENN. CODE ANN. § 56-6-112(a)(5), (7), and (8) for a total of twenty-one total violations, and Respondent is **ORDERED** to pay a civil monetary penalty of \$1,000 for each violation for a total civil penalty of \$21,000. Respondent is **ORDERED** to pay all costs associated with the bringing of this action, including prosecutorial, investigatory, and hearing costs, in the amount of \$3,000.00. Respondent shall have **60 days** from the date of entry of this INITIAL ORDER to pay the civil monetary penalty and the assessed costs.

SUMMARY OF THE EVIDENCE

Monica Meeks, State Financial Investigator for the Financial Services Investigation Unit of the Department of Commerce and Insurance, testified at the hearing on behalf of the Division. Ten exhibits were entered into evidence. EXHIBIT 1 consists of the Liberty National Life Insurance Company letter, October 17, 2016. COLLECTIVE EXHIBIT 2 consists of the Licensee Summary and Licensee Look-Up for Respondent. COLLECTIVE EXHIBIT 3 consists of the Social Security frequently asked questions and the Social Security numbers history from the Social Security Administration. COLLECTIVE EXHIBIT 4 consists of documents relating to policies for Wanda Glasgow. EXHIBIT 5 consists of documents relating to policies for June McCarty. COLLECTIVE EXHIBIT 6 consists of documents relating to policies for Larry Barnes. COLLECTIVE EXHIBIT 7 consists of documents relating to policies for Steve McMillian. COLLECTIVE EXHIBIT 8 consists of documents relating to policies for Natalie Butler. COLLECTIVE EXHIBIT 9 consists of documents relating to policies for Shelly Reed. COLLECTIVE EXHIBIT 10 consists of documents relating to policies for Sherry Taylor.

FINDINGS OF FACT

1. Liberty National Life Insurance Company (“Liberty”) formerly employed Respondent as an insurance producer, Tennessee license number 2333518. On October 17, 2016, Liberty notified the Department they had terminated Respondent “for cause”. EXHIBIT 1.
2. Respondent wrote a fraudulent insurance policy for Wanda Glasgow. COLLECTIVE EXHIBIT 4.
3. Respondent wrote a fraudulent insurance policy for June McCarty. COLLECTIVE EXHIBIT 5.
4. Respondent wrote a fraudulent insurance policy for Larry Barnes. COLLECTIVE EXHIBIT 6.

5. Respondent wrote a fraudulent insurance policy for Steve McMillian. COLLECTIVE EXHIBIT 7.

6. Respondent wrote a fraudulent insurance policy for Natalie Butler. COLLECTIVE EXHIBIT 8.

7. Respondent wrote a fraudulent insurance policy for Shelly Reed. COLLECTIVE EXHIBIT 9.

8. Respondent wrote a fraudulent insurance policy for Sherry Taylor. COLLECTIVE EXHIBIT 10.

9. At the time Respondent wrote the above-referenced fraudulent policies, she was a Tennessee licensed insurance producer. Respondent's national producer number was 17931369. Her license was effective from May 3, 2016, through July 31, 2018. COLLECTIVE EXHIBIT 2.

10. Respondent received commissions due to the fraudulent activities.

APPLICABLE LAW

1. At all times relevant hereto, TENN. CODE ANN. § 56-6-112(a) provides the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license issued under this part or may level a civil penalty in accordance with § 56-2-305 or take any combination of those actions for any one or more of the following causes:

- (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
 - (7) Having admitted or been found to have committed any insurance unfair trade practice or fraud; and
 - (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this state or elsewhere.
2. TENN. CODE ANN. § 56-6-112(b) provides the Uniform Administrative Procedures

Act, compiled in title 4, chapter 5, governs all matters and procedures respecting the hearing and judicial review of any contested case arising under this chapter.

3. TENN. CODE ANN. § 4-5-101 et. al (Uniform Administrative Procedures Act).

4. TENN. CODE ANN. § 4-5-307, which states, as follows:

In a contested case, all parties shall be afforded an opportunity for hearing after reasonable notice. (b) In all proceedings the notice shall include: (1) A statement of the time, place, nature of the hearing, and the right to be represented by counsel; A statement of the legal authority and jurisdiction under which the hearing is to be held, including a reference to the particular sections of the statutes and rules involved; and (3) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon timely, written application a more definite and detailed statement shall be furnished ten (10) days prior to the time set for the hearing.

5. TENN. CODE ANN. § 4-5-320, which states, in pertinent part, as follows:

(c) No revocation, suspension, or withdrawal of any license is lawful unless, prior to the institution of agency proceedings, the agency gave notice by mail to the licensee of facts or conduct that warrant the intended action, and the licensee was given an opportunity to show compliance with all lawful requirements for the retention of the license. If the agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined.

6. TENN. CODE ANN. § 56-6-112(c) states, “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.”

7. TENN. CODE ANN. § 56-6-112(g) states, “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 insurer, person, or entity 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). . . .
- (3) The suspension or revocation of the person’s license.

8. TENN. CODE ANN. § 56-6-112(h) provides, “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.

CONCLUSIONS OF LAW

1. The Division has met its burden of proof by a preponderance of the evidence that Respondent is in violation of TENN. CODE ANN. § 56-6-112(a)(5) of intentionally misrepresenting the terms of an actual or proposed contract or application for insurance on seven fraudulent policies. Having found to have committed seven violations of this statute, Respondent is assessed a civil penalty of \$1,000 each violation, for a total civil assessment of \$7,000.

2. The Division has met its burden of proof by a preponderance of the evidence that Respondent is in violation of TENN. CODE ANN. § 56-6-112(a)(7) for having admitted or been found to have committed any insurance unfair trade practice or fraud on seven fraudulent policies. Having found to have committed seven violations of this statute, Respondent is assessed a civil penalty of \$1,000 for each violation, for a total civil assessment of \$7,000.

3. The Division has met its burden of proof by a preponderance of the evidence that Respondent is in violation of TENN. CODE ANN. § 56-6-112(a)(8) for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere by creating seven fraudulent

policies. Having found to have committed seven violations of this statute, Respondent is assessed a civil penalty of \$1,000 for each violation, for a total civil assessment of \$7,000.

ORDER

It is therefore **ORDERED** that Respondent pay a civil penalty in the amount of \$21,000 to the Tennessee Department of Commerce and Insurance, ATTN: Legal Division, Davy Crockett Tower, 500 James Robinson Parkway, Nashville, Tennessee 37243. This civil penalty is to be paid within 60 days from the date of entry of this INITIAL ORDER.

It is further **ORDERED** that Respondent pay all costs associated with the bringing of this action, including prosecutorial, investigatory, and hearing costs, in the amount of \$3,000.00. Respondent shall have 60 days from the date of entry of this INITIAL ORDER to pay the assessed costs to the above-listed address.


It is further **ORDERED** Respondent's Tennessee Insurance Producer license, number 2333518 be **REVOKED**.

All persons in any way assisting, aiding, or helping Respondent in any of the aforementioned violations of the law shall **CEASE AND DESIST** all such activities. 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.


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.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **16th day of September, 2020**.


CLAUDIA PADFIELD
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
16th day of September, 2020.


STEPHANIE SHACKELFORD, DIRECTOR
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

NOTICE OF FILING PROCEDURES

Due to the COVID-19 pandemic, APD has changed its filing procedures. Until further notice, filings should be made by **email** to APD.Filings@tn.gov or by **facsimile** to 615-741-4472. Paper filings should only be made by mail if a litigant has no access to either email or facsimile. If you are filing by email, documents should be saved in PDF format prior to filing. Each document to be filed must be a separate PDF. Only one filing method should be used. Please name PDFs for filing in the following format:

“APD CASE NUMBER YOUR NAME ABBREVIATED NAME OF DOCUMENT BEING FILED AGENCY NAME”

NOTICE OF APPEAL PROCEDURES

REVIEW OF INITIAL ORDER

The Administrative Judge's decision in your case **BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE (COMMISSIONER)**, called an Initial Order, was entered on **September 16, 2020**. The Initial Order is not a Final Order but shall become a Final Order unless:

1. **A Party Files a Petition for Reconsideration of the Initial Order:** You may ask the Administrative Judge to reconsider the decision by filing a Petition for Reconsideration. Mail to the Administrative Procedures Division (APD) a document that includes your name and the above APD case number, and states the specific reasons why you think the decision is incorrect. The APD must receive your written Petition no later than 15 days after entry of the Initial Order, which is no later than **October 1, 2020**. A new 15 day period for the filing of an appeal to the **COMMISSIONER** (as set forth in paragraph (2), below) 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.

The Administrative Judge has 20 days from receipt of your Petition to grant, deny, or take no action on your Petition for Reconsideration. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing (as discussed in paragraph (2), below) will be adjusted. If no action is taken within 20 days, the Petition is deemed denied. As discussed below, if the Petition is denied, you may file an appeal. Such an Appeal must be received by the APD no later than 15 days after the date of denial of the Petition. *See* TENN. CODE ANN. §§ 4-5-317 and 4-5-322.

2. **A Party Files an Appeal of the Initial Order:** You may appeal the decision to the **COMMISSIONER**. Mail to the APD a document that includes your name and the above APD case number, and states that you want to appeal the decision to the **COMMISSIONER**, along with the specific reasons for your appeal. The APD must receive your written Appeal no later than 15 days after the entry of the Initial Order, which is no later than **October 1, 2020**. The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317.
3. **The COMMISSIONER decides to Review the Initial Order:** In addition, the **COMMISSIONER** may give written notice of the intent to review the Initial Order, within 15 days after the entry of the Initial Order.

If either of the actions set forth in paragraphs (2) or (3) above occurs prior to the Initial Order becoming a Final Order, there is no Final Order until the **COMMISSIONER** renders a Final Order.

If none of the actions in paragraphs (1), (2), or (3) above are taken, then the Initial Order will become a Final Order. **In that event, YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER.**

STAY

In addition, you may file a Petition asking the Administrative Judge for a stay that will delay the effectiveness of the Initial Order. A Petition for a stay must be received by the APD within 7 days of the date of entry of the Initial Order, which is no later than . *See* TENN. CODE ANN. § 4-5-316.

NOTICE OF APPEAL PROCEDURES

REVIEW OF A FINAL ORDER

1. **A Party may file a Petition for Reconsideration of the Final Order:** When an Initial Order becomes a Final Order, a party may file a Petition asking for reconsideration of the Final Order. Mail to the Administrative Procedures Division (APD) a document that includes your name and the above APD case number, and states the specific reasons why you think the Final Order is incorrect. If the Initial Order became a Final Order without an Appeal being filed, and without the **COMMISSIONER** deciding to modify or overturn the Initial Order, the Administrative Judge will consider the Petition. If the **COMMISSIONER** rendered a Final Order, the **COMMISSIONER** will consider the Petition. The APD must **receive** your written Petition for Reconsideration no later than 15 days after: (a) the issuance of a Final Order by the **COMMISSIONER**; or (b) the date the Initial Order becomes a Final Order. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing the Final Order will be adjusted. If no action is taken within 20 days of filing of the Petition, it is deemed denied. *See* TENN. CODE ANN. § 4-5-317.
2. **A Party Files an Appeal of the Final Order:** A person who is aggrieved by a Final Order in a contested case may seek judicial review of the Final Order by filing a Petition for Review “in the Chancery Court nearest to the place of residence of the person contesting the agency action or alternatively, at the person’s discretion, in the chancery court nearest to the place where the cause of action arose, or in the Chancery Court of Davidson County,” within 60 days of (a) the date of entry of a Final Order; or (b) the date the Initial Order becomes a Final Order. *See* TENN. CODE ANN. § 4-5-322. The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317. A reviewing court also may order a stay of the Final Order upon appropriate terms. *See* TENN. CODE ANN. §§ 4-5-322 and 4-5-317.
3. **A Party may request a stay of the Final Order:** A party may file a Petition asking for a stay that will delay the effectiveness of the Final Order. If the Initial Order became a Final Order without an Appeal being filed, and without the **COMMISSIONER** deciding to modify or overturn the Initial Order, the Administrative Judge will consider the Petition. If the **COMMISSIONER** rendered a Final Order, the **COMMISSIONER** will consider the Petition. A Petition for a stay of a Final Order must be **received** by the APD within 7 days after the Initial Order becomes a Final Order. *See* TENN. CODE ANN. § 4-5-316.

FILING

To file documents with the Administrative Procedures Division, use this address:

Secretary of State
Administrative Procedures Division
William R. Snodgrass Tower
312 Rosa L. Parks Avenue, 8th Floor
Nashville, TN 37243-1102
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