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SECRETARY OF STATE

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

TENNESSEE INSURANCE DIVISION Petitioner,	)	
vs.	)	No. 12.01-101055J
JAMES DENNIS HARBIN d/b/a HARBIN INSURANCE AGENCY Respondent.	)	

FINAL ORDER

The Respondent, James Dennis Harbin d/b/a Harbin Insurance Agency, initiated this appeal of the Initial Order entered by John Hicks, Administrative Law Judge within the Department of State, Administrative Procedures Division on August 28, 2009. The Initial Order held that the Tennessee Insurance Division had met its burden of proof by a preponderance of the evidence that Respondent provided incorrect, misleading, incomplete or materially untrue information in license renewal applications, prohibited by TENN. CODE ANN. § 56-6-112(a)(1); violated a law, rule, regulation, subpoena or order of the Commissioner or another state's Commissioner, prohibited by TENN. CODE ANN. § 56-6-112(a)(2); improperly withheld, misappropriated or converted money or property received in the course of doing insurance business, prohibited by TENN. CODE ANN. § 56-6-112(a)(4); used fraudulent, coercive or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere, prohibited by TENN. CODE ANN. § 56-6-112(a)(8). The Administrative Law Judge further found that the Respondent's insurance producer license should be revoked and that Respondent should be assessed a civil penalty in the amount

of sixteen thousand ($16,000.00) dollars. Respondent filed his Petition for Reconsideration and an Appeal of the Initial Order with the Administrative Procedures Division on September 14, 2009.

A Scheduling Order was issued by the Commissioner of Commerce and Insurance on October 15, 2009 instructing the Respondent to file his brief setting forth the basis of his appeal and the supporting law and argument by November 20, 2009. The Scheduling Order specified that the Respondent's failure to submit his brief by that date would result in the dismissal of his appeal and the entry of a Final Order adopting the Initial Order.

On December 1, 2009, counsel for the Petitioner filed a Motion to Dismiss Respondent's Petition for Reconsideration and Appeal of the Initial Order because the Respondent did not file his brief. To date, Respondent has not filed a Response to the Petitioner's Motion.

It is, therefore, ORDERED that Mr. Harbin's Petition for Reconsideration and Appeal of the Initial Order is DISMISSED. The Initial Order entered in this matter on August 28, 2009 is hereby ADOPTED.

IT IS SO ORDERED.

This 16th day of December, 2009.

Leslie A. Newman

Leslie A. Newman, Commissioner

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Final Order has been filed in the Administrative Procedures Division, Department of State, and sent via hand delivery to Bruce Poag, the attorney for the Department of Commerce & Insurance and via Certified, Return Receipt Requested and by United States Mail, First Class, Postage Prepaid, to James Dennis Harbin d/b/a Harbin insurance Agency, Respondent, West Emory Road, Powell, Tennessee 37849 on this 17th day of December, 2009.

NOTICE OF RECONSIDERATION AND APPEAL PROCEDURES

Within fifteen (15) days after the Final Order is entered, a party may file a Petition for Reconsideration of the Final Order with the Commissioner or Commerce and Insurance, in which the Petitioner shall state the specific reasons why the Final Order was in error. If no action is taken within twenty (20) days of filing of the Petition for Reconsideration with the Commissioner of Commerce and Insurance, the Petitioner is deemed denied. TENN. CODE ANN. § 4-5-317.

A party 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 Davidson County Chancery Court within sixty (60) days after the entry of the 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 for Reconsideration. The filing of a Petition for Reconsideration does not itself act to extend the sixty (60) day period, if the petition is not granted. A reviewing court also may order a stay of the Final Order upon appropriate terms. TENN. CODE ANN. §§ 4-5-322 and 4-5-317.