State of Tennessee
Department of State
Administrative Procedures Division
312 Rosa L. Parks Avenue
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Nashville, Tennessee 37243-1102
Phone: (615) 741-7008/Fax: (615) 741-4472

October 3, 2016

Commissioner Julie Mix McPeak
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Office of Legal Counsel
12th Floor, Davy Crockett Tower
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Dillon R. Shaw
1517 Lana Renee Court
Hermitage, TN 37076

RE: In the Matter of: Dillon R. Shaw Docket No. 12.04-135663J

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

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure

RECEIVED
OCT 05 2016
DEPT. OF COMMERCE AND INSURANCE
LEGAL OFFICE

BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF:

DANA R. SHAW **DOCKET NO. 12.04-135663J**

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 **October 18, 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 INSUANCE OF THE STATE OF TENNESSEE AT NASHVILLE

IN THE MATTER OF: **TENNESSEE INSURANCE DIVISION,** ***Petitioner,*** ***vs.*** **DILLON R. SHAW,** ***Respondent.***	**DOCKET NO. 12.04-135663J** **TID NO. 15-143**

INITIAL ORDER

This matter was heard on March 22, 2016, in Nashville, Tennessee, before Administrative Judge Mary M. Collier, assigned by the Secretary of State, Administrative Procedures Division ("APD"), to sit for the Commissioner of the Tennessee Department of Commerce and Insurance ("Commissioner"). The March 22, 2016, hearing addressed the allegations contained in the NOTICE OF HEARING AND CHARGES filed on January 29, 2016, pertaining to Respondent Dillon R. Shaw. Jesse D. Joseph, Assistant General Counsel, represented the Petitioner, the Tennessee Insurance Division ("Division"). The Respondent participated in the hearing *pro se*, waiving his right to hire an attorney.

After the hearing, the Petitioner filed the TRANSCRIPT of the proceedings and a proposed ORDER. The Respondent was given an opportunity to file a proposed ORDER as well. To date, the Respondent has not filed a proposed ORDER.

After consideration of the RECORD in this matter, it is **ORDERED** that Tennessee insurance producer license (No. 2227555) of the Respondent Dillon R. Shaw is **REVOKED** and that the Respondent Dillon R. Shaw is assessed **CIVIL PENALTIES** in the total amount of two

thousand dollars ($2,000) for violations of TENN. CODE ANN. §§ 56-6-112(a)(2) & (a)(8). This decision is based upon the following.

FINDINGS OF FACT

1. Title 56 of the Tennessee Code Annotated ("TENN. CODE ANN."), specifically Tenn. Code Ann. §§ 56-1-202 and 56-6-112 (the "Law"), places the responsibility of the administration of the Law on the Commissioner of the Department of Commerce and Insurance ("Commissioner"). The Division is the lawful agent through which the Commissioner discharges this responsibility.

2. Dillon R. Shaw ("Respondent") is a licensee of the Division who is responsible for being compliant with the insurance laws and regulations of the State of Tennessee. Respondent holds a Tennessee insurance producer license, number 2227555, which became active on or about November 27, 2012.

3. Respondent's insurance producer license expired on February 28, 2015. According to the Division's official agent licensing records as of the time of the hearing, Respondent's mailing address was 4217 Nonaville Road, Mt. Juliet, TN 37122. However, at the hearing, Respondent stated on the record that his current mailing address is now 1517 Lana Renee Court, Hermitage, TN 37076.

4. In August and September of 2014, Respondent was employed as an insurance producer for Greater Nashville Insurance Group, an independent agency for Auto Owners Insurance located at 208A McGavock Pike, Nashville, TN 37214.

5. On or around August 7, 2014, Mr. Vern Fish, an insured of Auto Owners for vehicles garaged in Florida, called the Greater Nashville Insurance Group and requested that

Respondent add Mr. Fish's newly-purchased 2009 VW Jetta and other older vehicles to his account. Mr. Fish purchased the Jetta approximately between August 2 and 5, 2014.

6. Respondent emailed Mr. Fish on August 7, 2014, and attached what were represented to be Insurance ID cards for the four (4) vehicles which Respondent believed to be covered by a certain policy number, including an ID card for the newly-purchased VW Jetta with an effective date of November 9, 2013. However, this ID card issued by Respondent for the Jetta was erroneous, in that the referenced policy had been canceled previously for non-payment of premium effective on January 9, 2014, and Mr. Fish had not purchased the Jetta in November 2013.

7. Mr. Fish signed the application for insurance on the 2009 Jetta and three (3) other vehicles, and delivered it to Respondent on August 19, 2014.

8. On September 2, 2014, Mr. Fish was injured after being cut off by a Ford Fusion and rear-ended by a truck while driving the VW Jetta. Mr. Fish called Respondent from the hospital and reported this accident three (3) to four (4) hours after it occurred. Mr. Fish spoke with Respondent several times over the course of the next two (2) weeks and Respondent promised to have adjusters from the truck driver's and Ford Fusion driver's insurance companies come out to inspect his vehicle. Respondent did not provide Mr. Fish with any claim number at the time Mr. Fish reported the accident on September 2, 2014.

9. On September 11, 2014, Respondent issued a second insurance certificate for Mr. Fish's 2009 VW Jetta using an ACORD certificate form. This second certificate was also ineffective because Auto Owners had not yet issued any policy insuring the VW Jetta.

10. Respondent did not build a billing account for this application until September 8, 2014, and did not send Mr. Fish's new insurance application to Auto Owners for processing until

approximately September 12, 2014. However, Respondent sought to ensure that Mr. Fish had retroactive coverage by back-dating the application to August 19, 2014, the date Mr. Fish returned it to Respondent.

11. After no insurance adjuster showed up as promised by Respondent, Ms. Fish called Auto Owners' home office by mid-September 2014 to report Mr. Fish's claim and the difficulty he had experienced in getting his questions answered by Respondent. Actual notice of Mr. Fish's accident was received by Auto Owners on September 15, 2014, and the new policy insuring the VW Jetta was issued on September 16, 2014.

12. At the time of Mr. Fish's accident on September 2, 2014, no insurance policy had been issued by Auto Owners covering the 2009 VW Jetta. Auto Owners commenced an investigation into this matter by mid-September 2014 and interviewed both Respondent and Mr. Fish by late September 2014. Before November 3, 2014, the Greater Nashville Insurance Group terminated Respondent's producer appointment with Auto Owners due to a lack of confidence in Respondent because he backdated Mr. Fish's application to attempt to cover the loss, and concerns that Respondent had acted in a misleading fashion regarding policy coverage for Mr. Fish.

13. Respondent's statements on Mr. Fish's application and within Auto Owners' investigation that this customer made a $635.76 premium deposit on the new policy in August 2014 were untrue, and Respondent has admitted that when Mr. Fish's signed application was returned to him on or around August 19, 2014, it got "push[ed] to the bottom of [his] desk inbox and forgotten – hence the backdating..."

ANALYSIS *and* CONCLUSIONS OF LAW

1. In accordance with RULES 1360-04-01-.02(7) and 1360-04-01-.15(3), the Petitioner has proven by a preponderance of evidence that the facts alleged in the NOTICE OF HEARING AND CHARGES pertaining to Respondent Dillon R. Shaw are true and that the issues raised therein should be resolved in its favor.

2. TENN. CODE ANN. §§ 56-6-112(a)(2) & (a)(8) provide:

> 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:
>
> ...
>
> (2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;
>
> ...
>
> (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. The Petitioner has shown by a preponderance of the evidence that the Respondent acted dishonestly in violation of TENN. CODE ANN. § 56-6-112(a)(8) by leading Mr. Fish to believe on numerous occasions between August 7, 2014, and mid-September of that year, that insurance was in place on the 2009 VW Jetta and by leading Mr. Fish to believe that insurance adjusters were coming to assess the damage to the 2009 Jetta after Mr. Fish's accident of September 2, 2014.

4. The Petitioner has also shown by a preponderance of the evidence that the Respondent has acted incompetently and was not trustworthy in the conduct of insurance business in violation of TENN. CODE ANN. § 56-6-112(a)(8), due to Respondent's three and one-half (3½) week delay in submitting Mr. Fish's new insurance application to Auto

Owners for processing, his issuance to Mr. Fish of erroneous and ineffective insurance ID cards and ACORD certificates, and his inaccurate statement that Mr. Fish had made a $635.76 premium deposit payment on the policy on or around August 19, 2014.

5. It is determined that the Respondent's violations of TENN. CODE ANN. § 56-6-112(a)(8) also result in violations of TENN. CODE ANN. § 56-6-112(a)(2), because Respondent's actions violate the laws of the State of Tennessee.

6. TENN. CODE ANN. § 56-6-112(g) provides, in pertinent part:

> 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 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.

7. It is determined that the proof in this case provides adequate grounds for the revocation of Respondent's Tennessee insurance producer license, and for the imposition of a civil penalty against Respondent in the total amount of two thousand dollars ($2,000), calculated as follows: one thousand dollars ($1,000) for his violations of TENN. CODE ANN. § 56-6-112(a)(2), and one thousand dollars ($1,000) for his violations of TENN. CODE ANN. § 56-6-112(a)(8).

JUDGMENT

IT IS THEREFORE ORDERED that:

1. The Respondent's Tennessee insurance producer license (No. 2227555) hereby is **REVOKED**, due to his actions in violations of TENN. CODE ANN. §§ 56-6-112(a)(2) and (a)(8), as described above.

2. The Respondent is **ASSESSED** a civil penalty of two thousand dollars ($2,000), based on his violations of the two (2) statutes cited above.

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.

It is so ORDERED.

Entered and effective this the 3rd day of OCTOBER 2016.

MARY M. COLLIER
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 3rd day of OCTOBER 2016.

J. Richard Collier

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.