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Agent # 0849243

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

TENNESSEE INSURANCE DIVISION,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**No.: 12.01-077585J**
	)	
JASON ALBERT TISDALE,	)	
	)	
Respondent.	)	

INITIAL ORDER

This matter came to be heard on April 25, 2006 and reconvened on June 29, 2006 before Tom Stovall, Administrative Judge assigned to the Secretary of State, Administrative Procedures Division, sitting for the Commissioner of the Tennessee Department of Commerce and Insurance in Nashville, Tennessee. Shawn Kiser Hawk, Attorney, Department of Commerce and Insurance, represented the Tennessee Insurance Division. The Respondent, Jason Albert Tisdale, appeared without counsel and was advised by this Administrative Judge of Respondent's right to have legal counsel. Respondent subsequently acknowledged and formally waived such right to counsel and proceeded in his own defense *pro se*.

The subject of this hearing was the proposed revocation of the Respondent's insurance producer license in Tennessee and the imposition of a civil penalty. After consideration of the testimony of witnesses, argument of the parties or their counsel, and the record in this matter, it is the determination of this Administrative Judge that the Respondent's insurance producer license should be **REVOKED** and that the Respondent should be ordered to pay a civil penalty to the Department in the amount of **three thousand dollars ($3,000).** This decision is based on the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The Commissioner of the Department of Commerce and Insurance for the State of Tennessee (hereinafter referred to as the "Commissioner") has jurisdiction pursuant to the Tennessee Insurance Law (hereinafter referred to as the "Law"), Tennessee Code Annotated, Title 56; specifically Tennessee Code Annotated Sections 56-1-202, and 56-6-112; and the Law places the responsibility for administration of its provisions on the Commissioner.

2. The Division is the lawful agent through which the Commissioner administers the Law and is authorized to bring this action.

3. The Respondent is a citizen and resident of the State of Tennessee, residing at 2949 East Glengarry Road, Memphis, Tennessee 38128.

4. The Respondent has an insurance producer's license, numbered 849243, issued on or about June 4, 2001.

5. Between November 18, 2002 and March 4, 2004 or thereabout, Respondent received approximately nine (9) payments from Mary Malone, a citizen and resident of Tennessee, totaling approximately three hundred fifty-three dollars ($353.00) to pay for an insurance policy, and Respondent failed to forward the payments to Monumental Life Insurance Company.

6. On or about December 9, 2002, Respondent received thirty-six dollars and fifty-four cents ($36.54) from Dollie McDonald, a citizen and resident of Tennessee, to pay for an insurance policy, and Respondent failed to forward the payment to Monumental Life Insurance Company.

7. On or about January 10, 2003, Respondent received one hundred six dollars and forty cents ($106.40) from Azzie Freeman, a citizen and resident of Tennessee, to pay for an

insurance policy, and Respondent failed to forward the payment to Monumental Life Insurance Company.

8. Between January 2003 and March 18, 2004 or thereabout, Respondent received twelve (12) payments totaling at least one hundred eighty-four dollars and eighty cents ($184.80) from Angie Perry, a citizen and resident of Tennessee, to pay for an insurance policy, and Respondent failed to forward the payments to Monumental Life Insurance Company.

9. Between March 12, 2003 and April 8, 2004 or thereabout, Respondent received approximately twenty-two (22) payments totaling five hundred fifty-two dollars and thirty-nine cents ($552.39) from Frankie Fox, a citizen and resident of Tennessee, for eight (8) insurance policies, and Respondent failed to forward the premium payments to Monumental Life Insurance Company.

10. On or about March 16, 2003, Respondent received forty-eight dollars and thirty-six cents ($48.36) from Remeal Stokes, a citizen and resident of Tennessee, to pay for an insurance policy, and Respondent failed to forward the payment to Monumental Life Insurance Company.

11. On or about May 5, 2003, Respondent received a payment totaling nineteen dollars and twelve cents ($19.12) from David White, a citizen and resident of Tennessee, to pay for an insurance policy, and Respondent failed to forward the payment to Monumental Life Insurance Company.

12. On or about December 15, 2003, Respondent received fifty-nine dollars and eighty cents ($59.80) from Carolyn Adams, a citizen and resident of Tennessee, to pay for an insurance policy, and Respondent failed to forward the payment to Monumental Life Insurance Company.

13. On or about February 11, 2004, Respondent received sixty-three dollars and fifteen cents ($63.15) from Ophelia Porter, a citizen and resident of Tennessee, to pay for an insurance policy, and Respondent failed to forward the payment to Monumental Life Insurance Company.

14. On or about February 22, 2004, Respondent received ninety-one dollars and thirty cents ($91.30) from Dorthea Davis, a citizen and resident of Tennessee, to pay for six (6) insurance policies, and Respondent failed to forward the payments to Monumental Life Insurance Company.

15. On or about March 16, 2004, Respondent collected cash premium payments in the total amount of two hundred twenty-seven dollars and thirty-three cents ($227.33) from eleven (11) people, all citizens and residents of Tennessee, for twelve (12) insurance policies, and Respondent failed to forward the payments to Monumental Life Insurance Company.

16. On or about March 18, 2004 and April 1, 2004 or thereabout, Respondent received three (3) payments totaling sixty dollars and eighty cents ($60.80) from Donneice Adams, a citizen and resident of Tennessee, to pay for three (3) insurance policies, and Respondent failed to forward the payments to Monumental Life Insurance Company.

17. On or about March 18, 2004, Respondent received one hundred forty-eight dollars and forty-nine cents ($148.49) from Katherine Jackson, a citizen and resident of Tennessee, to pay for an insurance policy, and Respondent failed to forward the payment to Monumental Life Insurance Company.

18. On or about March 25, 2004, Respondent collected premium payments in the total amount of two hundred sixty-seven dollars and seventy-six cents ($267.76) from nine (9) people, all citizens and residents of Tennessee, for nine (9) insurance policies, and Respondent failed to

forward the payments to Monumental Life Insurance Company.

19. On or about March 31, 2004, Respondent collected premium payments in the total amount of one hundred thirty dollars and eighty-seven cents ($130.87) from ten (10) people, all citizens and residents of Tennessee, for fourteen (14) insurance policies, and Respondent failed to forward the payments to Monumental Life Insurance Company.

20. On or about April 8, 2004, Respondent collected premium payments in the total amount of one hundred eighty-seven dollars and thirty-six cents ($187.36) from six (6) people, all citizens and residents of Tennessee, for nine (9) insurance policies, and Respondent failed to forward the payments to Monumental Life Insurance Company.

21. On or about April 13, 2004, Respondent received one hundred seventy-eight dollars and fifty-five cents ($178.55) from Lillie Dougherty, a citizen and resident of Tennessee, to pay for an insurance policy, and Respondent failed to forward the payment to Monumental Life Insurance Company.

22. On or about April 16, 2004, Respondent collected premium payments in the total amount of one thousand six hundred fifty-six dollars and seventy-seven cents ($1,656.77) from numerous people, all citizens and residents of Tennessee, for approximately one hundred (100) insurance policies, and Respondent failed to forward the payments to Monumental Life Insurance Company.

23. On or about December 19, 2003, Respondent failed to return to Monumental Life Insurance Company a Dell Latitude C600 laptop computer kit owned by Monumental Life Insurance Company and valued at nine hundred sixty-two dollars ($962.00).

24. On or about April 19, 2004, Monumental Life Insurance Company terminated its insurance producer appointment contract with Respondent.

CONCLUSIONS OF LAW

25. In this and all other civil enforcement actions brought by the Tennessee Department of Commerce and Insurance, the Department has the burden of proving that the Respondent engaged in activity that is in violation of the Law and/or Department rules. *See Moseley v. Tennessee Dept. of Commerce and Ins.*, 167 W.W. 3d 308 (Tenn. Ct. App. 2004).

26. Tenn. Code Ann. § 56-6-112(a)(8) provides, in pertinent part, that the Commissioner may revoke a license issued under this part or may levy a civil penalty in accordance with subsection (e) or take any combination of such actions if she finds that a licensee has used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

27. Tenn. Code Ann. § 56-6-112(a)(4) provides, in pertinent part, that the Commissioner may revoke a license issued under this part or may levy a civil penalty in accordance with subsection (e) or take any combination of such actions, if she finds that a licensee has improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business.

28. Tenn. Code Ann. § 56-6-116 provides, in pertinent part, that any money which an insurance producer receives for soliciting, negotiating or selling insurance shall be held in a fiduciary capacity, and shall not be misappropriated, converted or improperly withheld, and that any violation of this section shall be considered grounds for the revocation of the insurance producer's license and shall subject the insurance producer to the sanctions and penalties set forth in Tenn. Code Ann. § 56-6-112.

29. The Division has proven by a preponderance of the evidence that Respondent violated Tenn. Code Ann. §§ 56-6-112(a)(4), 112(a)(8) and 116 when he failed to forward numerous premium payments to Monumental Life Insurance Company or any other insurance company and when he failed to return to Monumental Life Insurance Company or reimburse it for a Dell Latitude C600 laptop computer kit owned by the company constituting grounds for an order revoking the Respondent's insurance producer license and assessing a civil penalty in accordance with Tenn. Code Ann. § 56-6-112(e).

It is therefore **ORDERED** that the insurance producer license number 849243 issued to Jason Albert Tisdale be **REVOKED**.

It is further **ORDERED** that a civil penalty be assessed against the Respondent in the amount of **Three Thousand Dollars ($3,000)** and that the cost of this action be assessed.

This Initial Order entered and effective this 17th day of July, 2006.

Tom Stovall
Administrative Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 17th day of July, 2006.

Charles C. Sullivan II, Director
Administrative Procedures Division