



State of Tennessee
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February 11, 2021

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Rebecca Burroughs Adams
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**RE: TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE V. REBECCA
BURROUGHS ADAMS, APD Case No. 12.01-202602J**

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.

REBECCA BURROUGHS ADAMS,

Respondent.

APD Case No. 12.01-202602J

INITIAL ORDER

This cause came on to be heard on November 6, 2020, before the Administrative Judge Phillip R. Hilliard, sitting on behalf of the Commissioner (“Commissioner”) of the Department of Commerce and Insurance. The Petitioner, the Tennessee Department of Commerce and Insurance (Department), was represented by Garron Amos, Associate General Counsel. The Respondent, Rebecca Burroughs Adams, did not appear. The hearing addressed the allegations contained in the NOTICE OF HEARING AND CHARGES pertaining to the Respondent, filed on August 6, 2020.

Upon consideration of the pleadings, the testimony of witnesses (both live and by affidavit), documentary evidence, and the entire record, the tribunal issues this Initial Order, determining that this matter should be resolved in favor of the Department, based on the following.

DEFAULT

Neither the Respondent nor anyone on her behalf appeared at the hearing. The Department demonstrated that the Respondent was adequately served notice of the proceedings against her, in accordance with TENN. COMP. R. AND REGS. CH. 1360-04-01-.06 and -.15, and

TENN. CODE ANN. § 4-5-309, based on the following documents admitted into evidence as Collective Exhibit 1:

- a. A copy of the Notice of Proposed Action letter issued pursuant to Tenn. Code Ann. § 4-5-320(c), Proposed Notice of Hearing and Charges, and Proposed Consent Order mailed to the Respondent's email address on July 1, 2020, and physical address via U.S. Mail and U.S. Certified Mail on July 2, 2020, a copy of the United States Postal Service Tracking information (receipt no. 70191120000056587347), and a copy of the email. According the USPS tracking records, the certified mailing was delivered on July 10, 2020, but then marked unclaimed on September 26, 2020.
- b. A copy of the Notice of Hearing and Charges and Notice of Hearing and Rights of Respondent mailed to the Respondent's physical address via U.S. Mail and U.S. Certified Mail on August 7, 2020, a copy of the United States Postal Service Tracking information (receipt no. 70191120000056585541), and a copy of the email. According the USPS tracking records, the certified mailing was marked unclaimed on September 26, 2020.
- c. A copy of the Amended Notice of Hearing and Rights of Respondent mailed to the Respondent's physical address via U.S. Mail and U.S. Certified Mail on August 11, 2020, and email address on October 29, 2020, a copy of the United States Postal Service Tracking information (receipt no. 70192970000085312433), and a copy of the email. According the USPS tracking records, the certified mailing was marked unclaimed on September 9, 2020.
- d. A copy of the Notice of Intent to Introduce Affidavit mailed to the Respondent's email address and physical address via U.S. Mail and U.S. Certified Mail on October 22, 2020, and a copy of the email. According the USPS tracking records, the certified mailing was marked unclaimed on November 18, 2020.
- e. A copy of the Witness and Exhibit List mailed to the Respondent's email address and physical address via U.S. Mail and U.S. Certified Mail on October 30, 2020, and a copy of the email. According the USPS tracking records, the certified mailing was marked unclaimed on November 18, 2020.

The Respondent's address to which these documents were sent is the address of record with the Department. This address must be kept current with the Department. TENN. CODE ANN. § 56-6-107. The Respondent's email address to which all documents were sent is the email address of record with the Department. None of the regular mailings were returned to the Department. Likewise, no documents sent out by the Administrative Procedures Division were returned.

FINDINGS OF FACT

1. The Respondent is a non-resident with an address of record of 6301 Brookhaven Trail, Arlington, TX 76001-7578.

2. The Respondent was first licensed with the Department on October 8, 2014. The Respondent held Tennessee non-resident insurance producer license number 2285968. The Respondent's license expired on April 30, 2019.

3. On or about November 13, 2014, the State of Wisconsin denied the Respondent's October 8, 2014, application for a permanent individual intermediary agent's license because the Respondent has been convicted of a "felony or misdemeanor, which appears to be based on actions substantially related to activities and character required of agents" and because the Respondent failed to respond to written requests for information regarding her application.

4. On or about November 4, 2015, the State of Wisconsin denied the Respondent's September 24, 2015, application for a permanent individual intermediary agent's license based on competence and trustworthiness factors because the Respondent failed to disclose the November 13, 2014, license denial and because the Respondent had not promptly responded to previous written requests for information regarding her application.

5. On or about March 16, 2017, the Respondent submitted a license renewal application to the Department in which the Respondent disclosed the administrative actions taken against her in Wisconsin.

6. On or about March 29, 2017, the State of Louisiana ordered the Respondent to pay a penalty of two hundred fifty dollars (\$250) for failure to disclose the 2 aforementioned administrative actions from the State of Wisconsin, on her renewal application. The Respondent failed to timely disclose the March 2017 Louisiana action to the Department.

7. On or about August 11, 2017, the State of Louisiana suspended the Respondent's license for failure to pay the fine imposed on March 29, 2017, pending payment of the fine. The Respondent failed to timely disclose the August 2017 Louisiana action to the Department.

8. On or about December 7, 2017, the State of Washington revoked the Respondent's license for failure to report other state action (the suspension of the Louisiana license), failure to respond to a warning letter regarding the Louisiana action, and due to the suspension of the Louisiana license. The Respondent failed to timely disclose the December 2017 Washington action to the Department.

9. On or about May 17, 2018, the State of California revoked the Respondent's license for "other state action, failure to report other state action, and failure to respond." The Respondent failed to timely disclose the California action to the Department.

10. On or about June 22, 2018, the State of Delaware entered a Final Decision and Order, revoking the Respondent's license and assessing the Respondent a five hundred dollar (\$500) fine due to the Respondent's failure to report the March 29, 2017, Louisiana action. The Respondent failed to timely disclose the Delaware action to the Department.

11. On or about July 24, 2018, the State of South Dakota revoked the Respondent's license for violating another state's insurance law, failure to report the other state action for the same, failure to respond to the South Dakota Division of Insurance inquiry regarding the same, and demonstration of a lack of fitness or trustworthiness through these violations. The Respondent failed to timely disclose the South Dakota action to the Department.

12. On or about December 13, 2018, the State of Louisiana revoked the Respondent's license for other state action – the aforementioned California revocation, Delaware fine, and South Dakota revocation – and the failure to report the same. The Respondent failed to timely disclose the December 2018 Louisiana action to the Department.

13. On or about February 19, 2019, the State of Washington rescinded a prior revocation order (based on the Louisiana action from August 11, 2017, and the Respondent's failure to report the same) and entered into a Consent Order with the Respondent, including a penalty of five hundred dollars (\$500), for failure to report the Louisiana action and failure to respond to the Insurance Commissioner of the state of Washington. The Respondent failed to timely disclose the February 2019 Washington action to the Department.

14. On or about February 21, 2019, the State of Virginia revoked the Respondent's license for her failure to report administrative action taken in another jurisdiction. The Respondent failed to timely disclose the Virginia action to the Department.

15. On or about March 28, 2019, the Respondent submitted a license renewal application to the Department. On her March 2019 renewal application, the Respondent answered "no" to the question of "[h]ave you been named or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration, which has not been previously reported to this insurance department?"

16. On or about April 30, 2019, the Department entered Inquisitorial Order number 19- 038, commencing an investigation of the Respondent.

17. On or about July 10, 2019, the State of Utah revoked the Respondent's license for "failure to report other state action" and "failure to respond." The Respondent failed to timely disclose the Utah action to the Department.

CONCLUSIONS OF LAW

1. In accordance with TENN. COMP. R. & REGS. 1360-04-01-.02(7) and 1360-04-01-.15(3) the Department has shown by a preponderance of the evidence that the facts alleged in the

NOTICE OF HEARING AND CHARGES pertaining to the Respondent are true, as specified herein, and that the issues therein should be resolved in its favor.

2. At all times relevant hereto, TENN. CODE ANN. § 56-6-112 has provided:

- (a) 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:
 - (1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;
 - (2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;
 - ...
 - (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;
 - ...
- (e) 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.
- (f) The commissioner may serve a notice or order in any action arising under this part by registered or certified mail to the insurance producer or applicant at the address of record in the files of the department. Notwithstanding any law to the contrary, service in the manner set forth in this subsection (f) shall be deemed to constitute actual service on the insurance producer or applicant.
- (g) If, after providing notice consistent with the process established by § 4-5-320(c), and providing the opportunity for a contested case hearing held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, 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.

(h) 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.

3. At all times relevant hereto, TENN. CODE ANN. § 56-6-119 has provided that:

- (a) A producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of any order entered or other relevant legal documents.

4. TENN. CODE ANN. § 56-1-110(b)(1) provides that "[t]he commissioner may . . . assess the actual and reasonable costs of the investigation, prosecution, and hearing of any

disciplinary action held accordance with the contested case provisions of the Uniform Administrative Procedures Act.”

5. The Respondent committed ten (10) violations of TENN. CODE ANN. § 56-6-112(a)(2) by violating a law, rule, regulation, subpoena or order of another state’s commissioner; in Louisiana (three (3) times), Washington (two (2) times), California, Delaware, South Dakota, Virginia, and Utah.

6. The Respondent committed ten (10) violations of TENN. CODE ANN. § 56-6-119(a) by failing to timely report administrative actions taken against the Respondent in Louisiana (three (3) times), Washington (two (2) times), California, Delaware, South Dakota, Virginia, and Utah to the Division.

7. The Respondent committed eight (8) violations of TENN. CODE ANN. § 56-6-112(a)(9) by having an insurance producer license, or its equivalent, denied, suspended or revoked in another state when the Respondent’s license was suspended by the State of Louisiana, then revoked by Louisiana, Washington, California, Delaware, South Dakota, Virginia, and Utah.

8. The Respondent committed one (1) violation of TENN. CODE ANN. § 56-6-112(a)(1) by falsely stating that she had not been named or involved as a party in an administrative proceeding that she had not previously reported to the Department.

JUDGMENT

1. The Respondent’s Tennessee non-resident insurance producer license number 2285968 is **REVOKED**.

2. The aforementioned twenty-seven (27) violations find their genesis in the denial of a license in Wisconsin due to the conviction of an unspecified crime. Thereafter, the Respondent failed to report successive administrative actions, including several license

revocations or suspensions, in other states that related back to the failure to report the original Wisconsin action; or the Louisiana action, which was based on the Wisconsin action. 3 states levied penalties, which ranged from a total of \$250 - \$500. While the Respondent disclosed the Wisconsin denial of licensure to the Department in 2017, the record does not reflect that the Department took any negative action against the Respondent, or her license, due to the Wisconsin denial. In March of 2019, the Respondent answered “no,” in a renewal application, to a question of whether she had been involved in an administrative action that she had not previously reported to the Department. While this was false, the fact that the administrative actions the Respondent failed to report all stem from the original Wisconsin action, of which the Respondent made the Department aware back in 2017, significantly mitigates the penalty amount. This is especially true since the record does not reflect that the Department took any negative action against the Respondent, or her license, for the 2017 Wisconsin denial. The situation would be markedly different if the Respondent had failed to report actions for multiple misdeeds. But that is not the case.

3. The factors set forth in TENN. CODE ANN. § 56-6-112(h) include whether the violator could believe the action, or inaction, to be compliant with the law. It is unlikely the Respondent could’ve believed her conduct to be compliant with the law. The next factor is economic deterrent. The revocation of the Respondent’s Tennessee license will prevent the Respondent from legally being in the insurance business in Tennessee.¹ Therefore, the need to specifically deter the Respondent from this conduct, going forward, is not significant. However, general deterrence for the regulatory community remains an appropriate consideration. The circumstances leading to the violation, as discussed above, do not show the need for a penalty anywhere approaching the maximum available amount. The violations are not particularly

¹ There is no evidence to suggest the Respondent has continued to transact business since her license expired on April 30, 2019.

egregious, all stemming from the Wisconsin action, and reflect that the Respondent simply has chosen to let each successive state take action against her license, mostly without challenge. Additionally, the Respondent has taken no action to renew her license in Tennessee, suggesting that she has no interest in remaining in the profession in this state. Therefore, the risk to the public is determined to be low. There is no evidence of economic benefit gained by the Respondent. The public's interest is tied primarily to the general deterrence needed to prevent others from engaging in the same conduct. There is no evidence that the Respondent has taken efforts to cure the violations of Tennessee law.

4. In consideration of the foregoing, a penalty of \$1,000 is assessed for the Respondent's violation of other state's laws. Because the Respondent's license was suspended or revoked in other states for these same violations, no additional penalties are assessed for those suspensions or revocations. Another \$1,000 penalty is assessed for the Respondent's failure to report these violations of other state's laws to the Petitioner. Finally, a \$500 civil penalty is assessed for the Respondent falsely stating that she had not been involved in an administrative action that she had not previously reported to the Department. In total, the Respondent is **ASSESSED** a Civil Penalty of **TWO THOUSAND, FIVE HUNDRED DOLLARS (\$2,500)**. This Civil Penalty is due and payable upon this Order becoming final.

5. The Respondent is **ASSESSED** costs, in accordance with TENN. CODE ANN. § 56-1-110(b)(1), in the amount of **ONE THOUSAND, TWO HUNDRED EIGHTY-FIVE DOLLARS (\$1,285)**.

4. This Initial Order imposing sanctions against the Respondent is entered to protect the public and consumers of insurance products in the State of Tennessee, consistent with the purposes fairly intended by the policy and provisions of the law.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **11th day of February, 2021.**



**PHILLIP R. HILLIARD
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 **11th day of February, 2021.**



**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 **February 11, 2021**. 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 **February 26, 2021**. 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 **February 26, 2021**. 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 **February 18, 2021**. *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:

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