



**State of Tennessee**  
**Department of State**  
Administrative Procedures Division  
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Nashville, Tennessee 37243-1102  
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July 15, 2016

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Tennessee Department of Commerce &  
Insurance  
Office of Legal Counsel  
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Kristian Baso  
133 SW 121<sup>st</sup> Way  
Coral Springs, FL 33071-8037

RE: In the Matter of: Kristian Baso

Docket No. 12.04-136968J

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

Administrative Procedures Division  
Tennessee Department of State

/aem  
Enclosure

RECEIVED  
JUL 19 2016  
DEPT OF COMMERCE AND INSURANCE  
LEGAL OFFICE

BEFORE THE COMMISSIONER OF THE TENNESSEE  
DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF:

KRISTIAN BASO

DOCKET NO. 12.04-136968J

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 August 1, 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, 8<sup>th</sup> 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 THE  
TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE**

**IN THE MATTER OF:**

**TENNESSEE INSURANCE DIVISION,**

**Petitioner,**

**v.**

**KRISTIAN BASO,**

**Respondent.**

**DOCKET NO: 12.04-136968J**

**TID NO: 16-012**

**INITIAL ORDER**

This contested case was heard on June 17, 2016, before Administrative Judge Jerome Cochran, assigned by the Secretary of State, Administrative Procedures Division, to sit for the Commissioner of the Tennessee Department of Commerce and Insurance. The Petitioner was represented by Assistant General Counsel James Witham. The Respondent, Mr. Kristian Baso, participated by phone conference at the hearing without representation of an attorney and was fully advised of his right to an engage an attorney for the proceedings. The Respondent waived his right to an attorney and proceeded without legal representation.

**FINDINGS OF FACTS**

1. The Tennessee Insurance Producer Licensing Act of 2002, TENN. CODE ANN. §§ 56-6-101 to 56-6-126 (“the Act”), places responsibility for administration of the Act on the Commissioner of the Department of Commerce and Insurance. The Tennessee Insurance Division (“the Division”) is the lawful agent through which the Commissioner discharges this responsibility.

2. Kristian Baso (“the Respondent”) is a licensee of the Division who is responsible for being compliant with the insurance laws and regulations of the State of Tennessee. The Respondent holds a Tennessee non-resident insurance producer license (number 2036765), which became active on or about July 28, 2011.

3. The Respondent’s insurance producer license expired on December 31, 2015; according to the Division’s official agent licensing records, as of the time of the hearing, the Respondent’s mailing address was 1900 NW 44<sup>th</sup> Street, Pompano Beach, Florida 33064 and an additional address at 133 SW 121<sup>st</sup> Way, Coral Springs, Florida 33071-8037.

4. On or about October 25, 1991, the Respondent pled guilty to and was convicted of Attempted Robbery in the Second Degree in the Supreme Court of the State of New York.

5. On or about November 15, 2001, the Respondent pled guilty to and was convicted of three (3) counts of battery in the Criminal Division of the Circuit Court of the Fifteenth Judicial Circuit of Florida in and for Palm Beach County.

6. On or about March 4, 2011, the Respondent received a Certificate of Relief from Disabilities from the State of New York. (Collective Exhibit 6)

7. The Respondent testified that he has received a Certificate of Clemency from the State of Florida with regard to the 2001 conviction for battery.

7. On July 28, 2011, the Respondent applied for a Tennessee nonresident insurance producer license and failed to disclose the prior convictions against him.

8. On July 8, 2015, the Respondent reported his criminal convictions on the National Association of Insurance Commissioners Clearing Warehouse.

10. On September 5, 2015, the State of California Department of Insurance revoked the Respondent’s nonresident insurance producer license for failing to disclose the prior

convictions against him and for having committed a felony as shown by a plea of guilty and a final judgment of conviction.

11. The Respondent testified that the failure to report his past convictions were due to ignorance of state reporting requirements and not to intentionally hide from state licensing agencies.

12. The Respondent testified that the criminal convictions were disclosed on his Florida insurance application and that he thought that other states would know the information through reciprocity laws with the state of Florida.

### CONCLUSIONS OF LAW

1. In accordance with TENN. COMP. R. & REG. 1360-04-01-.02(7), the Division bears the burden of proving by a preponderance of the evidence that the facts alleged in the Notice of Hearing and Charges are true and that the issues raised therein should be resolved in its favor.

2. TENN. CODE ANN. § 56-6-112 provides:

(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;

....

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud;

....

(9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]

TENN. CODE ANN. § 56-6-112(a)(1), (3), and (9).

3. Tenn. Code Ann. § 56-6-119(a) states that 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. § 56-6-112 (2011), states:

- (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.
- (g) 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.
- (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.

5. The Division has shown by a preponderance of the evidence that the Respondent is in violation of Tenn. Code Ann. § 56-6-112(a)(1) by not disclosing his prior convictions thereby providing incorrect and materially untrue information on his license application.

6. The Division has shown by a preponderance of the evidence that the Respondent is in violation of Tenn. Code Ann. § 56-6-112(a)(3) by obtaining his license through misrepresentation by answering untruthfully about having been convicted of a crime.

7. The Division has shown by a preponderance of the evidence that the Respondent is in violation of Tenn. Code Ann. § 56-6-112(a)(9) by having his insurance producer license revoked by the State of California.

8. The Division has shown by a preponderance of the evidence that the Respondent is in violation of Tenn. Code Ann. § 56-6-119(a) for failing to report to the Commissioner that his insurance producer license was revoked by the State of California.

9. The Respondent stipulated that he is in violation of the allegations made by the State. Based on the testimony, it appears that the Respondent did not intend to provide untrue information on his application, as he believed that the disclosures regarding his past convictions that he made on his Florida licensing application would be shared through reciprocity agreements with the state of Tennessee and other states.

10. It is determined that the proof adduced at the hearing provides adequate grounds for the imposition of a single one thousand dollar (\$1,000.00) civil penalty for violation of TENN. CODE ANN. § 56-6-112(a)(9) and Tenn. Code Ann. § 56-6-119(a). There shall be no fines for violations of TENN. CODE ANN. § 56-6-112(a)(1) and (3) due to the failure to find that the violations were intentionally made to misrepresent. While the Division requested imposition of four civil penalties, all of the facts in this case revolve around two acts of failure to report – the Respondent’s failure to report past criminal convictions and failure to report suspension of his license in another state. Based on the evidence and testimony, it is found that the failure to report the criminal acts were not done to misrepresent or to commit fraud.

11. Further, based on the factors of TENN. CODE ANN. § 56-6-112(h), it is determined that a one thousand dollar (\$1,000.00) civil penalty will be a substantial economic deterrent to the Respondent, the Respondent’s actions pose minimal risk of harm to the public, and he has fully reported all criminal background issues to every state and he fully understands reporting requirements that he must adhere to when conducting business in Tennessee and other states.

12. It is determined that the hearing costs incurred by the Division to the Administrative Procedures Division of the Secretary of State, and to the court reporter in this matter, should be assessed against the Respondent.

### JUDGMENT

**WHEREFORE**, it is hereby **ORDERED, ADJUDGED, AND DECREED** as follows:

1. The Respondent is **ASSESSED a single \$1,000.00 civil penalty**, due to his actions in violation of TENN. CODE ANN. §§ 56-6-112(a)(9) and Tenn. Code Ann. § 56-6-119(a), for which execution shall issue if necessary. The Respondent shall pay said civil penalty to the Department of Commerce and Insurance with one (1) year of the filing date of this Initial Order.

2. The Division shall file its Itemized Assessed Bill of Costs including the Administrative Procedures Division costs, and those of the court reporter, within fifteen (15)

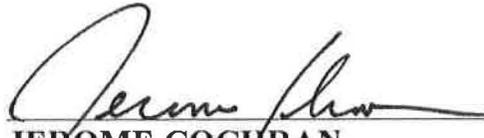
days after the filing of the Initial Order in this matter, and said costs are hereby incorporated within this Initial Order.

3. The Respondent is **ASSESSED all hearing costs** incurred in this matter pursuant to TENN. R. CIV. P. 54.04(1) and TENN. COMP. R. & REG. 1360-04-01-.01(3), and shall pay same within one (1) year after the State files and serves Respondent with its Itemized Assessed Bill of Costs, for which execution may issue if necessary.

4. This Initial Order shall take effect upon filing with the Administrative Procedures Division of the Office of the Secretary of State.

**It is so ORDERED.**

Entered and effective this the 15<sup>th</sup> day of JULY 2016.



**JEROME COCHRAN**  
**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

15<sup>th</sup> day of JULY 2016.



**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, 8<sup>th</sup> 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.