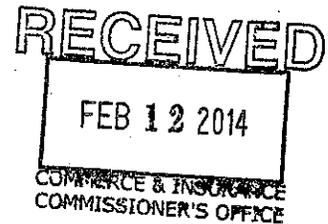




State of Tennessee
Department of State
Administrative Procedures Division
312 Rosa L. Parks Avenue
8th Floor, William R. Snodgrass Tower
Nashville, Tennessee 37243-1102
Phone: (615) 741-7008/Fax: (615) 741-4472



February 10, 2014

Commissioner Julie Mix McPeak
Tennessee Department of Commerce &
Insurance
Office of Legal Counsel
12th Floor, Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243-5065

James R. Witham, Esq.
Assistant General Counsel
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Ricky Wallace Greene
348 Jones Road
Shelbyville, TN 37869

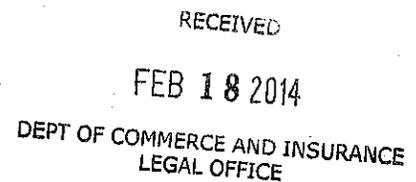
RE: In the Matter of: Ricky Wallace Greene

Docket No. 12.01-123854J

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

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure



BEFORE THE COMMISSIONER OF THE TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF:

RICKY WALLACE GREENE

DOCKET NO. 12.01-123854J

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 **February 25, 2014**.

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 THE
TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE**

IN THE MATTER OF:

**Tennessee Insurance Division,
*Petitioner,***

DOCKET NO: 12.01-123854J

v.

**Ricky Wallace Greene,
*Respondent.***

INITIAL ORDER

This matter came to be heard on January 23, 2014, in Nashville, Tennessee, before Rob Wilson, Administrative Law Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Commerce and Insurance. Attorney James R. Witham represented the Department of Commerce and Insurance (Department), and Respondent proceeded on his own behalf.

ISSUES FOR DETERMINATION

1. Did the Department show, by a preponderance of the evidence, that Respondent was convicted of a felony?
2. Is revocation of Respondent's insurance license the proper disposition of this case?

SUMMARY OF DETERMINATION

It is **DETERMINED** that the Department showed, by preponderance of the evidence, that Respondent was convicted of two felonies: Aggravated Burglary and Aggravated Assault. Revocation of Respondent's license is appropriate under the circumstances. This determination is made upon the following findings of fact and conclusion of law:

FINDINGS OF FACT

1. Respondent is a Tennessee resident residing in Shelbyville, Tennessee. Respondent has held a valid Tennessee insurance producer license since 1992.
2. On March 13, 2012, Respondent pled guilty in the Criminal Court of Davidson County to two (2) Class C felonies: Aggravated Burglary and Aggravated Assault, stemming from an incident in September of 2011.
3. Respondent pled guilty and was convicted of two felonies and was sentenced to six years at thirty percent. Respondent completed a nine month residential rehab program and was allowed to complete the rest of his sentence on probation. Respondent is on probation until 2017.
4. The Department filed this action in December of 2013, seeking revocation of Respondent's license, assessment of civil penalties of \$2,000,¹ and other general relief to which they may be entitled.
5. The Department has shown, by a preponderance of the evidence, that Respondent pled guilty to and was convicted of two felonies. Respondent's conviction of a felony supports the revocation of his insurance license.

CONCLUSIONS OF LAW

1. The Department has the burden to introduce evidence that would, by a preponderance of the evidence, prove the issues should be resolved in its favor. Rule 1360-4-1-.02.
2. Tenn. Code Ann. §56-6-112(a)(6) authorizes the Commissioner to place on probation, suspend, revoke or refuse to issue or renew a license where the license holder has been convicted of a felony.

¹ At the contested case hearing on January 23, 2014, counsel for the Department stated that the Department was *not* seeking an assessment of civil penalties against Respondent.

3. Tenn. Code Ann. §56-6-112(g)(2) allows the Commissioner to assess a penalty of \$1,000 per violation of Tenn. Code Ann. §56-6-112(a). Tenn. Code Ann. §56-6-112(h) requires the Commissioner to consider the following factors in determining an appropriate penalty:

- (i) whether the person could reasonably have interpreted such person's actions to be in compliance with the obligations required by statute, rule or order;
- (ii) whether the amount imposed will be a substantial economic deterrent to the violator;
- (iii) the circumstance leading to the violation;
- (iv) the severity of the violation and the risk of harm to the public;
- (v) the economic benefits gains by the violator as a result of non-compliance;
- (vi) the interest of the public; and
- (vii) the person's efforts to cure the violation.

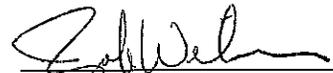
4. Tenn. Code Ann. §56-53-106(b)(1) prohibits a person convicted of a felony involving dishonesty or breach of trust to participate in the business of insurance unless a waiver is granted by the Commissioner of Insurance.

IT IS CONCLUDED that the Department has shown, by a preponderance of the evidence, that Respondent was convicted of two felonies. Respondent's insurance license #0684059 is hereby revoked, and Respondent is required to pay the Department's cost of prosecuting this case.

Pursuant to state and federal law, Respondent must gain the written waiver of the Commissioner before he can be re-licensed to sell insurance. Respondent can reapply for licensure and request the Commissioner's written waiver pursuant to the administrative process established by the Department.

IT IS THEREFORE ORDERED that Respondent's insurance producer license is revoked, and he is to pay the Department's cost of prosecuting this case.

This Order entered and effective this 10th day of FEBRUARY 2014.



Rob Wilson
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 10th
day of FEBRUARY 2014.



J. Richard Collier, Director
Administrative Procedures Division

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.