

0751248

RECEIVED
2006 MAY -2 PM 2:55
SECRETARY OF STATE

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

TENNESSEE INSURANCE DIVISION,)
)
Petitioner,)
)
vs.)
)
RHONDA SUZANN SMITH JURGENSEN,)
)
Respondent.)

No.: 12.01-084354J

AGREED ORDER OF REVOCATION

WHEREAS, Petitioner, the Tennessee Insurance Division (hereinafter referred to as the "Division"), and the Respondent, Rhonda Suzann Smith Jurgensen (hereinafter referred to as the "Respondent"), hereby stipulate and agree, subject to the approval of the Commissioner of Commerce and Insurance (hereinafter referred to as the "Commissioner") as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Agreed Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry of the Commissioner.
2. The Commissioner has determined that the resolution set forth in this Agreed Order is fair and reasonable, and in the best public interest.
3. This Agreed Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Agreed Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Agreed Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

4. Respondent fully understands that this Agreed Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts or omissions not specifically addressed in this Agreed Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

5. Respondent expressly waives all further procedural steps, and expressly waives all rights to seek judicial review of or to otherwise challenge or contest the validity of the Agreed Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Agreed Order by the Commissioner.

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 that 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, and at all times relevant has been, a citizen and resident of the State of Tennessee, currently residing at 7247 Cox Pike, Fairview, Tennessee 37062.

4. At all times relevant to the events described herein, the Respondent had an insurance producer's license, numbered 751248, issued on November 14, 1994.

5. On or about June 27, 2003, Respondent received from Bobby G. Lyons, a resident of Lawrenceburg, Tennessee, eight hundred eighty dollars (\$880.00) in payment of premium for

insurance on his properties located in Lawrenceburg, Tennessee. Respondent failed to forward the payment to American National Property and Casualty Insurance Company or any other insurance company.

6. On or about July 22, 2003, Respondent received from Kenneth Robertson eight hundred seventy dollars (\$870.00) in payment of premium for insurance on his residence located in Leoma, Tennessee. Respondent failed to forward the payment to American National Property and Casualty Insurance Company or any other insurance company.

7. On or about August 5, 2003, Respondent received from Juan Rosales one hundred seventy-five dollars (\$175.00) in payment of premium for insurance on his residence located in Lawrenceburg, Tennessee. Respondent failed to forward the payment to American National Property and Casualty Insurance Company or any other insurance company.

8. On or about September 22, 2003, Respondent received from Charles and Carolyn F. Scott, residents of Lawrenceburg, Tennessee, one thousand two hundred thirty-eight dollars (\$1,238.00) in payment of premium for automobile and homeowners insurance. Respondent failed to forward the payment to American National Property and Casualty Insurance Company or any other insurance company.

9. On or about October 9, 2003, Respondent received from Sheila Frisbie of Title and Escrow of Lawrence County, I.L.C. five hundred forty-two dollars (\$542.00) in payment of premium for insurance on the newly purchased residence of Brian and Elizabeth Dean, located in Leoma, Tennessee. Respondent failed for forward the payment to American National Property and Casualty Insurance Company or any other insurance company.

10. On or about October 23, 2003, Respondent received from Sue Mobley five hundred sixty-five dollars (\$565.00) in payment of premium for insurance on her residence

located in St. Joseph, Tennessee. Respondent failed to forward the payment to American National Property and Casualty Insurance Company or any other insurance company.

CONCLUSIONS OF LAW

11. 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.

12. Based upon the Findings of Fact stated above, the Commissioner finds that Respondent used fraudulent and dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business in this state when she failed to forward premium payments to American National Property and Casualty Insurance Company. Such facts constitute grounds for an order revoking Respondent's license pursuant to Tenn. Code Ann. § 56-6-112(a)(8).

13. 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.

14. Based upon the Findings of Fact stated above, the Commissioner finds that Respondent improperly withheld, misappropriated and converted moneys and properties received

in the course of doing insurance business when she failed to forward premium payments to American National Property and Casualty Insurance Company, and that such facts demonstrate grounds for an order revoking the Respondent's license in accordance with Tenn. Code Ann. § 56-6-112(a)(4).

15. 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.

16. Based upon the Findings of Fact stated above, the Commissioner finds that Respondent misappropriated, converted and improperly withheld money received for selling insurance and failed to hold such money in a fiduciary capacity when she failed to forward premium payments to American National Insurance Company, and that such facts demonstrate grounds for an order revoking the Respondent's license in accordance with Tenn. Code Ann. §§ 56-6-112 and 116.

ORDER

NOW THEREFORE, on the basis of the foregoing, and the waiver of the Respondent, of her rights to a hearing and appeal under Tennessee Insurance Law and Tennessee's Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.*, and the admission by the Respondent of the jurisdiction of the Commissioner, the Commissioner finds that the Respondent has agreed to the entry of this Order and that this Order is appropriate, and in the public interest.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 56-6-112 of the Tennessee Insurance Law, that:

1. The insurance producer license, numbered 751248, held by the Respondent, Rhonda Suzann Smith Jurgensen, is hereby **REVOKED** from the date of the entry of this Order; and

2. Respondent shall pay a **CIVIL PENALTY** within thirty (30) days of the entry of this Order in the amount of one thousand dollars (\$1,000).

This Agreed Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signature affixed below, Rhonda Suzann Smith Jurgensen affirmatively states that she has freely agreed to the entry of this Agreed Order, that she has been advised that she may consult legal counsel in this matter and has had the opportunity to consult with legal counsel, that she waives her right to a hearing on the matters underlying this Agreed Order, and that no threats or promises of any kind have been made by the Commissioner, the Division, or any agent or representative thereof.

The parties, by signing this Agreed Order, affirmatively state their agreement to be bound by the terms of this Agreed Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Agreed Order, are binding upon them.

SO ORDERED.

ENTERED this the 28th day of April, 2006.

Paula A. Flowers *PS*

Paula A. Flowers, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

Larry C. Knight, Jr.
Larry C. Knight, Jr.
Assistant Commissioner for Insurance
Department of Commerce and Insurance
500 James Robertson Parkway
Nashville, Tennessee 37243

Rhonda Suzann Smith Jurgensen
Rhonda Suzann Smith Jurgensen, Respondent

Shawn Kiser Hawk
Shawn Kiser Hawk (BPR# 011280)
Staff Attorney
Department of Commerce and Insurance
500 James Robertson Parkway, 12th Floor
Nashville, Tennessee 37243
(615) 532-6830
(615) 741-4100 facsimile
shawn.hawk@state.tn.us