



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

October 23, 2025

Courtney Smith, Esq.
Tennessee Department of Commerce and Insurance
General Civil - Legal Division
500 James Robertson Parkway, 5th Floor
Nashville, TN 37243
Sent via email only to:
courtney.anne.smith@tn.gov

Derrick Phillips
1417 Laurel Oak Drive
Antioch, TN 37013
Sent via email also to:
lejuan3@gmail.com

**RE: TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE V. DERRICK
PHILLIPS, APD Case No. 12.01-252710J**

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.

**DERRICK PHILLIPS,
*Respondent.***

APD Case No. 12.01-252710J

INITIAL ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

This matter is set to be heard before Administrative Judge Claudia Padfield, assigned by the Administrative Procedures Division (APD) of the Tennessee Secretary of State's Office to sit for the Commissioner of the Tennessee Department of Commerce and Insurance, on November 6, 2025. The contested case was initiated by a NOTICE OF HEARING AND CHARGES filed by Petitioner, the Tennessee Department of Commerce and Insurance, on May 22, 2025, against Respondent, Derrick Phillips.

Pursuant to the ORDER SETTING PRE-HEARING CONFERENCE issued on May 23, 2025, a telephone pre-hearing conference was held on June 6, 2025. Respondent and Petitioner's counsel appeared. Respondent acknowledged receipt of the NOTICE OF HEARING AND CHARGES and verified his mailing and email addresses. The parties announced that they were drafting a settlement agreement, and the matter was continued. A second telephone pre-hearing conference was held on July 7, 2025. Petitioner's counsel appeared, but Respondent did not appear. The parties were negotiating the settlement language and asked for another continuance. As such, a third telephone pre-hearing conference was held on August 18, 2025. Respondent failed to

appear and had not signed the settlement agreement. As such, the matter was set for a due process hearing to be heard on November 6, 2025.

On October 1, 2025, Petitioner filed PETITIONER'S MOTION FOR SUMMARY JUDGMENT, PETITIONER'S STATEMENT OF UNDISPUTED FACTS, MEMORANDUM OF LAW IN SUPPORT OF PETITIONER'S MOTION FOR SUMMARY JUDGMENT, and affidavits from Rosalind Swinger, William Pyrdom, and Caroline Randolph. Pursuant to the ORDER SETTING RESPONSE DEADLINE issued on October 9, 2025, Respondent was ordered to file any response to the MOTION by 4:30 p.m. Central Time on October 17, 2025. Respondent did not file a response to the MOTION. Respondent has had the allowable time to file a response and has chosen not to do so; as such, the MOTION is deemed submitted for disposition.

Upon consideration of Petitioner's MOTION, the applicable law, and the entire record in this matter, it is determined that Respondent was properly served with the NOTICE OF HEARING AND CHARGES, that there are no material facts in dispute, and that the Petitioner is therefore entitled to a judgment as a matter of law. Accordingly, the MOTION is **GRANTED**.

Respondent is **ORDERED** to pay a civil monetary penalty of \$3,000. Respondent is also **ORDERED** to pay all reasonable costs associated with the bringing of this action, including prosecutorial, investigatory, and hearing costs, not to exceed \$5,000. Petitioner will file and serve Respondent with its itemized assessment of costs in this matter. Respondent's insurance producer license is **SUSPENDED**.

UNDISPUTED MATERIAL FACTS

1. Respondent is a resident insurance producer in the State of Tennessee, having a resident insurance producer license number 2013675 and a national producer license number 15878433. This license expires on September 30, 2026.

2. On July 15, 2019, Taliafaro (a Tennessee company) prepared a check for its July 2019 premium renewal in the amount of \$28,750.40 for remittance to UnitedHealthcare (UHC). The check number was 7064.

3. On July 15, 2019, check number 7064 was posted to Respondent's TRUX Commercial Account ending in 9745.

4. UHC's payment history showing payment transactions on Taliafaro's account to UHC's online portal showed the following:

- a. On October 10, 2019, a payment from Respondent was attempted to UHC in an amount of \$28,000, ref# PH0888975. The payment was later returned for lack of funds.
- b. On October 24, 2019, a payment from Respondent was attempted to UHC in an amount of \$28,000, ref# PH0890705. The payment was later returned for lack of funds.
- c. On October 30, 2019, a payment from Respondent was attempted to UHC in an amount of \$28,000, ref# PH0892027. The payment was later returned for lack of funds.
- d. On November 18, 2019, a \$10,000 payment from Respondent was made to UHC and cleared, ref# PH0695033.
- e. On November 22, 2019, a \$10,000 payment from Respondent was attempted and marked as "not allowed," ref# PH0696195.

5. On November 16, 2019, UHC mailed Taliafaro a termination notice, terminating its policy with UHC, for return of insufficient funds due to three returned payments. The letter showed that Taliafaro's coverage was scheduled to terminate on December 3, 2019.

6. On November 25, 2019, Taliafaro's program specialist, Rosalind Swinger, emailed UHC's field account manager, Nicole Mothersbaugh, an appeal of the termination explaining the timeline of events concerning the returned payments and Respondent's failure to resolve the missing payment.

7. On November 27, 2019, Kodzo Agbenyah, a Taliafaro employee, emailed Respondent a demand for a cashier's check of \$8,750.40 from Respondent. Respondent replied and stated that he would remit a cashier's check within the hour.

8. On December 5, 2019, UHC notified Taliafaro of its reinstatement of coverage.

9. On February 18, 2020, Respondent emailed Taliafaro, claiming that he was still awaiting a "treasury hold" to be released, and he would send the cashier's check with an extra \$1,000 for the trouble.

10. On March 10, 2020, Respondent emailed Taliafaro, stating that he would drop the cashier's check off on March 30, 2020, and he apologized for the delay.

11. On December 29, 2020, Petitioner's Financial Services Investigations Unit conducted an interview with Respondent under oath. During the interview, Respondent indicated that he worked with Taliafaro for seven or eight years. Respondent confirmed that he physically picked up checks from Taliafaro twice previously. Respondent confirmed that check #7064 was physically picked up from Taliafaro and was not remitted to Taliafaro's UHC bill pay account but was instead deposited into a discretionary account.

SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter

of law.” TENN. R. CIV. P. 56.04; *Rye v. Women’s Care Ctr. of Memphis*, 477 S.W.3d 235, 250-52, 264-65 (Tenn. 2015). The party seeking summary judgment has the burden of persuading the court that its motion satisfies the requirements of Rule 56. *Id.* When considering a summary judgment motion, the court must view the evidence in the light most favorable to the nonmoving party and must draw all reasonable inferences in that party’s favor. *Huggins v. McKee*, 500 S.W.3d 360, 364 (Tenn. Ct. App. 2016).

Courts consistently have emphasized that a party opposing a motion for summary judgment may not simply rest on its pleadings but must affirmatively oppose the motion. *Holland v. City of Memphis*, 125 S.W.3d 425, 428 (Tenn. Ct. App. 2003). Such opposition may be made by pointing to the evidence in the record that indicates disputed material facts. *McCarley v. W. Quality Food Serv.*, 960 S.W.2d 585, 588 (Tenn. 1998). Summary judgment should therefore be granted only if the uncontroverted facts presented, and conclusions to be drawn from the facts, make it so clear that a reasonable person can reach only one conclusion. *Yount v. FedEx Express*, 2016 WL 1056958, at *3 (Tenn. Ct. App. March 17, 2016).

ANALYSIS and CONCLUSIONS OF LAW

1. The foregoing undisputed material facts establish, by a preponderance of the evidence, that Respondent violated the law when he misappropriated funds while conducting insurance business. This is a violation of TENN. CODE ANN. § 56-6-112(a)(2).

2. The foregoing undisputed material facts establish, by a preponderance of the evidence, that Respondent misappropriated funds while conducting insurance business. Respondent misappropriated Taliafaro’s July 2019 insurance premium when he deposited the funds into his TRUX Commercial Account ending in 9745, which was not UHC’s premium remittance account. This is a violation of TENN. CODE ANN. § 56-6-112(a)(4).

3. The foregoing undisputed material facts establish, by a preponderance of the evidence, that Respondent collected \$28,750.40 from Taliafaro and failed to deposit the money in UHC's company bank account. Respondent failed to pay Taliafaro's July 2019 premium despite being notified that the payment was not properly remitted to UHC. Respondent made false statements to Talifaro about the status of his repayment of their missing July 2019 premium to UHC. These facts demonstrate incompetence, untrustworthiness, or financial responsibility. This is a violation of TENN. CODE ANN. § 56-6-112(a)(8).

4. TENN. CODE ANN. § 56-6-112, license denial, renewal, suspension or revocation, provides, in pertinent part:

(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:

(2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;

(4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere[.]

5. A violation of TENN. CODE ANN. § 56-6-112(a)(2), (4), or (8) is subject to penalty not to exceed \$1,000 per violation pursuant to TENN. CODE ANN. § 56-6-112(g)(2).

6. TENN. CODE ANN. § 56-6-112(h) provides that in determining the amount of any penalty to be assessed, the following factors may be considered:

(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.

7. Given the factors and statutes referenced above, the maximum civil penalties of \$1,000 for Respondent's violations of TENN. CODE ANN. § 56-6-112(a)(2), (4), and (8) are necessary for four reasons.

8. First, imposing a civil penalty is necessary to provide a sufficient economic deterrent to prevent Respondent from placing the public at harm by engaging in such activity in the future.

9. Second, the amount of the contract at issue was more than \$28,000. This is a significant amount of money and allowing Respondent to keep the money in his account, rather than transmitting the money for payment, would provide him with a significant economic benefit.

10. Third, imposing the maximum penalty for each violation is appropriate because Respondent could reasonably have interpreted his actions to be in violation of a statute, rule, or order.

11. Finally, Respondent has presented the tribunal with no mitigating factors in this matter as Respondent has not filed a response to Petitioner's MOTION. Moreover, there is nothing in the record to suggest that Respondent returned all of the misappropriated funds. All of these factors weigh in favor of Respondent being assessed the maximum civil penalty of \$1,000 per violation.

12. Respondent is assessed with all prosecutorial, investigatory, and hearing costs associated with this cause of action in accordance with TENN. CODE ANN. §§ 56-6-110(b)(1) and 56-1-311 and TENN. COMP. R. & REGS. 0780-05-11-.01.

13. TENN. CODE ANN. § 56-6-112(a) grants authority to the Commissioner of the Tennessee Department of Commerce and Insurance to place on probation, suspend, or revoke the license of any licensee for any violation. A suspension of Respondent's license is appropriate given the three violations.

ASSESSMENT OF CIVIL PENALTIES AND COSTS and SUSPENSION

1. Respondent is **ASSESSED** a total of **\$3,000 in civil penalties** for the above-referenced violations for which execution may issue if necessary;

2. Respondent is **ASSESSED prosecutorial, investigatory, and hearing costs incurred by Petitioner**, not to exceed \$5,000, herein for which execution may issue if necessary pursuant to TENN. CODE ANN. § 56-1-311(a), and TENN. COMP. R. & REGS. § 0780-5-11-.01(1). Petitioner shall file and serve Respondent with its itemized bill of costs in this matter.

3. Respondent's Tennessee insurance producer license, number 2013675, is hereby **SUSPENDED** until such time as Respondent can prove to Petitioner that all penalties and costs from this ORDER are paid and that all monies have been remitted to Taliafaro.

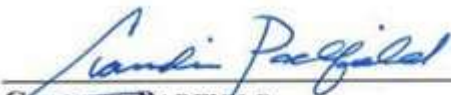
The November 6, 2025 hearing is hereby **CANCELED** and shall be removed from the docket.

POLICY REASONS FOR DECISION

The policy reasons for this decision are to protect the safety and wellbeing of the public and the citizens of the State of Tennessee as well as to ensure individuals adhere to the laws and requirements regarding and relating to the State's licensing requirements.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **23rd day of October 2025**.



CLAUDIA PADFIELD
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
23rd day of October 2025.