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February 14, 2018

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Insurance
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John Oscar Wilson, III
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RE: In the Matter of: John Oscar Wilson, III and James Allen Ford, Jr.
Docket No. 12.01-133366J

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

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure

RECEIVED
FEB 20 2018
DEPT. OF COMMERCE AND INSURANCE
LEGAL OFFICE

BEFORE THE COMMISSIONER OF THE TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF:

JOHN OSCAR WILSON, III AND
JAMES ALLEN FORD, JR.

DOCKET NO. 12.01-133366J

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 **March 1, 2018**.

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.

**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE**

**TENNESSEE INSURANCE
DIVISION,**

Petitioner,

vs.

**JOHN OSCAR WILSON, III,
Respondent.**

**Docket No. 12.01-133366J
TID No. 15-105**

INITIAL ORDER

The hearing in this matter came before Jerome Cochran, Administrative Judge, assigned by the Secretary of State, Administrative Procedures Division, sitting for the Commissioner of the Tennessee Department of Commerce and Insurance, on January 11, 2018. The Petitioner was represented by Assistant General Counsel Jesse D. Joseph. The Respondent, John Oscar Wilson, III, was not personally present or represented by counsel, but phoned in to participate in the hearing from the US Penitentiary McCreary in Pine Knot, Kentucky, after the Court permitted his participation by telephone. The hearing in this matter was previously set on both October 24 and December 19, 2016, and was continued on both of those dates. By Order entered on September 20, 2017, the hearing in this matter was set for January 11, 2018.

The subject of the hearing was the proposed revocation of the Respondent's Tennessee resident insurance producer license and the Petitioner's request for civil penalties regarding Respondent's alleged violations of certain provisions of Title 56, Tennessee Code Annotated ("Tenn. Code Ann."). After considering the exhibits entered into evidence, testimony from the Respondent, and argument from the parties, it is

determined that the Respondent's license should be **REVOKED** and that he should be **ORDERED** to pay a \$187,000 civil penalty.

This decision is based on the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. John Oscar Wilson, III ("Respondent"), is a licensee of the Division who is responsible for being compliant with the insurance laws, and regulations of the State of Tennessee. Respondent held a valid Tennessee resident insurance producer license, number 0654322, which became active on or about October 2, 1984, and which expired on September 30, 2015. According to records on file with the Division, Respondent's residential address is 6510 Whittemore Lane, Antioch, TN 37013-4802. (Affidavit of Kimberly Biggs, Exhibit 7).
2. According to the inmate locator tab of the US Bureau of Prisons ("BOP") website, Respondent's current mailing address, since sometime in June 2017, is Register No. 24732-075, USP McCreary, P.O. Box 3000, Pine Knot, KY 42635. (See www.bop.gov/inmateloc ; Transcript of Proceedings ("Tr.") at p. 73).
3. At no time has Respondent held licensure as an investment adviser representative, an agent of a broker dealer, or any other licensure enabling him to sell securities or provide investment advice. (Affidavit of John Perry Warden, Exhibit 8).
4. On October 15, 2015, the Petitioner filed and served a Notice of Hearing and Charges with Request for Summary Suspension against the Respondent, and on October 19, 2015, Respondent signed the US Postal Service certified mail return receipt card acknowledging his receipt of the Notice of Hearing and Charges filed against him. (Copy of certified mail return receipt card for item no. 7014 1200 0001 7187 5534, signed by Respondent on October 19, 2015, Exhibit 1).

5. On October 15, 2015, the Commissioner entered an Order summarily suspending Respondent's Tennessee insurance producer license pursuant to Tenn. Code Ann. § 4-5-320(c), and to date, this summary suspension order has not been lifted. (October 15, 2015 Order of Summary Suspension, Exhibit 3).

6. James Allen Ford, Jr., a former Tennessee licensed insurance producer, was named as a co-Respondent in the October 15, 2015 Notice of Hearing and Charges, but in December 2017, the Petitioner and Mr. Ford entered into a separate settlement agreement. Accordingly, after this settlement was effective, the Petitioner filed a voluntary nonsuit in this matter as to Mr. Ford. (Tr. at pp. 4, 40).

7. Beginning as early as 2005 and continuing until at least November 2014, Respondent devised a scheme to defraud and to obtain money from his clients and various insurance agencies by making material false representations to his clients, and by using wires to further his scheme. During this period of time, Respondent was the owner and operator of an insurance agency known as Preserve Financial Group ("PFG"), located at 1616 Westgate Circle, Brentwood, TN 37027. (Certified copy of Respondent's August 24, 2016 Petition to Enter a Plea of Guilty, Order, and Plea Agreement, filed in *U.S.A. v. John Oscar Wilson*, Case No. 3:16-cr-00047, at p. 4 of the Plea Agreement, Exhibit 5; and Certified copy of the Tennessee Secretary of State's business entity records for PFG, Exhibit 2).

8. The Respondent conducted his scheme to defraud in at least three ways. First, the Respondent, in order to obtain increased commissions, would advise clients to remove their money from their existing tax-deferrable investments and purchase multiple insurance products, and in so doing, would not disclose to his insurance clients the consequences of the repeated investments -- including adverse tax consequences and

substantial surrender charges. (Certified copy of Respondent's August 24, 2016 Petition to Enter a Plea of Guilty, Order, and Plea Agreement, filed in *U.S.A. v. John Oscar Wilson*, Case No. 3:16-cr-00047, at p. 4 of the Plea Agreement, Exhibit 5).

9. Second, the Respondent would convince some of his clients to surrender insurance policies and/or annuities and provide him with the funds from the surrender by deceiving clients into believing that the money would be used to invest in another insurance policy or annuity. Thereafter, instead of investing the money in other insurance policies or annuities, the Respondent would cause these funds to be deposited into the PFG account and used primarily for his own personal benefit. (Certified copy of Respondent's August 24, 2016 Petition to Enter a Plea of Guilty, Order, and Plea Agreement, filed in *U.S.A. v. John Oscar Wilson*, Case No. 3:16-cr-00047, at p. 4 of the Plea Agreement, Exhibit 5).

10. The third way the Respondent executed his scheme to defraud was by convincing some of his clients to surrender insurance policies and/or annuities and provide him with the funds from the surrender by deceiving clients into believing they were investing in PFG by buying stock in the company, when in truth there was no such stock, and the money was deposited into the PFG account and used primarily for the Respondent's personal benefit. (Certified copy of Respondent's August 24, 2016 Petition to Enter a Plea of Guilty, Order, and Plea Agreement, filed in *U.S.A. v. John Oscar Wilson*, Case No. 3:16-cr-00047, at p. 4 of the Plea Agreement, Exhibit 5).

11. Specifically, the Respondent used a radio program, The Retirement Solutions Show, to advertise books entitled, "The Retirement Miracle," and "Tax Free Retirement," written by Patrick Kelly, to attract the business of retirees. (Affidavit of Donna J. Siewert, Exhibit 11 at ¶ 4; Affidavit of Harlan Wesley Petty, Exhibit 12, at ¶ 3).

TRACY L. BLEVINS MATTER

12. Ms. Blevins resides in Bell Buckle Tennessee, and is forty-seven (47) years old. In 1999, Ms. Blevins began working at Castner Knott in the Salon in Nashville, Tennessee, and began immediately contributing to their 401(k) program. In or about 2005, she met Respondent and began cutting and styling hair for him and his family in or about that year. She continued to cut hair for Mary Kay, Respondent's wife, their daughter Paige and their son Tyler, until approximately May or June of 2016. (September 27, 2016 Affidavit of Tracy L. Blevins, Exhibit 10 at ¶¶ 3-5).

13. In or about 2008, Respondent discussed with Ms. Blevins how he could help her invest her money; informing her that he could get her a higher return on her investments than her 401(k). Respondent bragged to Ms. Blevins at this time about being an investment and financial wizard. In or about March 2008, Respondent advised her to remove approximately \$15,000 from her 401k account, and to reinvest that money in a life annuity product. (September 27, 2016 Affidavit of Tracy L. Blevins, Exhibit 10 at ¶ 6).

14. Respondent explained nothing to Ms. Blevins about surrender fees, additional taxes, penalties and charges if the money was withdrawn before she turned 59. In the spring of 2008, Respondent met Ms. Blevins at Toot's on Broad Street in Murfreesboro to begin the paperwork to transfer the funds. Ms. Blevins learned that her \$15,000 401k balance was transferred by Respondent into a ten (10) year Indexed Life Annuity with Allianz Life Insurance Company ("Allianz"). (September 27, 2016 Affidavit of Tracy L. Blevins, Exhibit 10 at ¶ 7).

15. In or about September of 2010, a little more than two (2) years after starting the ten (10) year Indexed Life Annuity with Allianz, Respondent told Ms. Blevins that

Allianz was cutting her a check for \$15,000. Respondent told her to deposit it in her account and then turn around and write a check to PFG Financial, so Ms. Blevins did as Respondent requested. (September 27, 2016 Affidavit of Tracy L. Blevins, Exhibit 10 at ¶ 8, and attachment A to this Exhibit).

16. Ms. Blevins received the \$15,000 check from Allianz in or about mid-September of 2010, and on September 20, 2010, she gave Respondent her personal check no. 1045 in that same amount made payable to PFG Financial, as directed by Wilson. Respondent never advised Ms. Blevins at that time that such a surrender of her Allianz annuity policy would result in a ten percent (10%) withdrawal penalty and subsequent tax liabilities. (September 27, 2016 Affidavit of Tracy L. Blevins, Exhibit 10 at ¶ 9, and attachment B to this Exhibit).

17. By September 2010, Ms. Blevins developed a trusting friendship with Respondent as she had been cutting his entire family's hair for 5 years. Ms. Blevins didn't question what Respondent was doing with this money which she gave him as an investment, but soon after she wrote the \$15,000 check to PFG, she began receiving bills in the mail from Allianz for a monthly premium of \$426.00 regarding a life insurance policy with Allianz that she didn't understand she even had. (September 27, 2016 Affidavit of Tracy L. Blevins, Exhibit 10 at ¶ 10).

18. Ms. Blevins then phoned Respondent in the fall of 2010 and asked what these bills were about, and told him that she had no more money to contribute to this new policy. Respondent told her not to "worry about it, TL." Respondent called Ms. Blevins "TL", a nickname for Tracy Lynn – which was a term of endearment and part of the friendship the two of them had developed. Respondent never explained to her why he had her sign new application papers with Allianz for a new life insurance policy on

October 26, 2010. (September 27, 2016 Affidavit of Tracy L. Blevins, Exhibit 10 at ¶ 11, and attachment C to this Exhibit).

19. In early 2013, Ms. Blevins went to H & R Block to do her taxes for calendar years 2010, 2011, and 2012, which is when she first realized that she owed taxes and penalties on the \$15,000 surrender of the Allianz annuity which she had invested with Respondent in September 2010. Ms. Blevins phoned Respondent in the early spring of 2013 and he informed her that she wouldn't have to pay taxes on that money and that he would take care of it. Ms. Blevins continued to try to contact Respondent by text and by phone for the rest of 2013, and well into 2014, asking him to meet her in an effort to resolve this tax issue and, for her to find out where her money was. Respondent would be a no show at planned meetings with Ms. Blevins or always claim something else was a priority over their scheduled meetings. By late 2014, Respondent avoided Ms. Blevins at all costs. At some point, Respondent did finally text Ms. Blevins to state that she would have to pay taxes on the \$15,000 annuity surrender, but he never offered an explanation as to where her money was or what kind of investment he put it in. (September 27, 2016 Affidavit of Tracy L. Blevins, Exhibit 10 at ¶ 12).

20. Respondent stopped coming in to get his hair cut after this tax issue came up and after Ms. Blevins asked for an explanation of where her investment money was. Over the years, Respondent continued to brag about putting in a pool at his home, throwing massive parties, and taking extravagant vacations. Since Respondent began to avoid Ms. Blevins altogether, it left her wondering which part of the pool or which vacation her money funded. (September 27, 2016 Affidavit of Tracy L. Blevins, Exhibit 10 at ¶ 13).

21. In late December 2011, Ms. Blevins received correspondence from Lori Wells of Allianz demonstrating that Respondent had only made four (4) payments totaling

\$3,278.45 since late 2010, in premiums on the Allianz policy that he obtained for her in October of 2010. Subtracting this \$3,278.45 amount from the \$15,000 which Ms. Blevins invested with Respondent, indicates that Respondent has misappropriated and converted to his own use the amount of \$11,721.55 of her investment money. On or about October 30, 2014, accompanied by former Insurance Fraud Investigator Thomas Stoquert, III, of the Tennessee Department of Commerce and Insurance, Ms. Blevins filed a police incident report with the Murfreesboro Police Department based on Respondent's theft of her investment funds. (September 27, 2016 Affidavit of Tracy L. Blevins, Exhibit 10 at ¶¶ 14 and 15, and attachments D & E to this Exhibit).

22. Through the present, Respondent has not paid back any of the \$11,721.55 he misappropriated from Ms. Blevins. Respondent has actually cost her more money than that amount- given the additional taxes, interest and penalties she is currently liable for to the IRS, based on the surrender of her Allianz annuity in 2010. (September 27, 2016 Affidavit of Tracy L. Blevins, Exhibit 10 at ¶ 16).

HARLAN AND BARBARA PETTY MATTER

23. Harlan and Barbara Petty ("the Pettys") live in Knoxville, Tennessee. They are seventy-five (75) and seventy two (72) years old, respectively. In late 2009 or early 2010, they met the Respondent and Mr. Ford after listening to The Retirement Miracle radio show discussing tax free retirement. At some point in 2010, Respondent met with the Pettys to deliver the book "Tax-Free Retirement" written by Patrick Kelly and to consult with them consult regarding investment of their money. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶¶ 3-5).

24. In December 2010, Respondent advised the Pettys to invest in a reverse mortgage for the purpose of getting money from the equity they held in their home. Respondent

introduced them to Phillip F. Fenton, III (“Fenton”), who helped the Pettys complete the reverse mortgage application process. Prior to investing in the reverse mortgage, the Pettys had two (2) mortgages; the first with SunTrust Mortgage for approximately \$92,598.39 and the second with SunTrust Bank for approximately \$12,959.10. On December 23, 2010, Fenton helped the Pettys complete their investment in Respondent’s recommended reverse mortgage. As a result of this investment, the Pettys incurred settlement charges in the amount of approximately \$8,214.80. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶¶ 6-7, and attachment A to this Exhibit).

25. The Pettys received no money from the reverse mortgage, as the funds gleaned from this reverse mortgage paid off their existing mortgages, and the remainder was retained by Respondent and Fenton as commission payments. The Pettys were confused whether they could still stay in their house until they passed away. They now know that they can remain in the house, but understand that their house is no longer an asset. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 8).

26. On December 29, 2010, upon the advice of Respondent, the Pettys purchased an annuity from National Western Life Insurance Company (“National Western”), with an effective date of February 11, 2011, in the amount of approximately \$51,499.78. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 9, and attachment B to this Exhibit).

27. On January 20, 2011, Respondent advised the Pettys to surrender their existing Hartford account, valued at \$9,000.00. Respondent failed to inform them that this surrender was subject to taxation in the amount of \$746.09. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 10, and attachment C to this Exhibit).

28. On February 23, 2011, using approximately \$48,500.22 of the Pettys' money, Respondent opened another annuity policy for them with National Western. This annuity policy had an effective date of March 4, 2011. In the course of opening the February 23, 2011 National Western annuity policy, Respondent forged Mr. Petty's signature on the NWL Ultra Classic Disclosure page, falsely indicating that Mr. Petty received a copy of the Disclosure and that he reviewed it with Respondent, as his agent. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 11, and attachment D to this Exhibit).

29. In early 2011, the Pettys went to H&R Block for their tax preparation, and discovered they owed taxes in the amount of \$36,754.00 due to Respondent's investment surrender advice. After learning about their 2011 tax obligation, Respondent instructed them not to be concerned about these taxes, that the government would not discover the taxes owed anyway. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 12, and attachment E to this Exhibit).

30. On June 30, 2011, Respondent advised the Pettys to surrender their existing Allianz annuity, valued at \$88,207.91. On June 30, 2011, the Pettys received \$74,973.72 from the surrender of their existing Allianz annuity policy, and Allianz wired this money to their personal bank account. Respondent did not advise them that such a surrender from their existing Allianz annuity would result in a surrender penalty. Nevertheless, on or about June 30, 2011, the Pettys incurred a \$13,234.19 surrender penalty as to this transaction. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 13, and attachment F to this Exhibit).

31. On July 8, 2011, upon the advice of Respondent, Mr. Petty purchased an annuity from Phoenix Life Insurance Company ("Phoenix") in the amount of \$65,000. (October

1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 14, and attachment G to this Exhibit).

32. On May 17, 2012, Respondent advised the Pettys to surrender their December 29, 2010 National Western annuity policy, after being in effect for only approximately fifteen (15) months, valued at \$46,107.43 at the time of surrender. On May 17, 2012, the Pettys received \$40,083.93 for the surrender of their December 29, 2010, National Western annuity policy. Respondent did not advise the Pettys that such a surrender of their December 29, 2010, National Western Annuity Policy would result in a surrender penalty. Nevertheless, the Pettys incurred a \$6,023.50 surrender penalty as to this transaction. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 15, and attachment H to this Exhibit).

33. On May 17, 2012, Respondent advised the Pettys to surrender their National Western annuity policy, which was purchased on February 23, 2011, after being in effect for only fourteen (14) months, valued at \$44,171.95 at the time of surrender. On May 17, 2012, the Pettys received \$37,727.64 from the surrender of their February 23, 2011, National Western annuity policy. Respondents did not advise them that such a surrender of our February 23, 2011, National Western annuity policy would result in a surrender penalty. Nevertheless, the Pettys incurred a \$6,444.31 surrender penalty as to this transaction. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 20, and attachment I to this Exhibit).

34. On May 25, 2012, upon the advice of Respondent, the Pettys purchased an annuity from EquiTrust Life Insurance Company (“EquiTrust”) in the amount of \$70,000. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 21, and attachment J to this Exhibit).

35. On May 30, 2013, the Internal Revenue Service (“IRS”) contacted the Pettys, indicating that they owed \$36,754.00 in unpaid tax penalties due to Respondent’s investment surrender advice. In or about early 2013, the Pettys did not take any action on the taxes owed pursuant to Respondent’s advice that the government would not realize they owed any additional taxes. On July 15, 2013, Respondent sent a letter to the IRS on behalf of the Pettys, which contained inaccurate and misleading information, purporting to represent them in their tax payment matter with the IRS. The Pettys are still negotiating the back owed taxes with the IRS. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 22, and attachment K to this Exhibit).

36. On August 7, 2013, Respondent advised the Pettys to surrender their Phoenix annuity policy, valued at \$66,011.62 at the time of surrender. On August 7, 2013, the Pettys received \$59,050.85 from the surrender of their Phoenix annuity policy. Respondent did not advise them that such a surrender of their Phoenix annuity policy would result in a surrender penalty. Nevertheless, the Pettys incurred an \$8,933.01 surrender penalty as to this transaction. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 23).

37. On August 20, 2013, upon the advice of Respondent, the Pettys purchased an annuity from Security Benefit Life Insurance Company (“Security Benefit”) in the amount of \$50,000. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 24, and attachment L to this Exhibit).

38. On April 9, 2014, Respondent advised the Pettys to surrender \$40,000 of their EquiTrust annuity policy. Respondent did not advise them that such a surrender of their EquiTrust annuity policy would result in a surrender penalty. Nevertheless, the Pettys

incurred a \$4,000.00 surrender penalty as to this transaction. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 25).

39. In total, from 2010 through 2014, the Pettys lost \$39,381.10 in surrender penalties based on Respondent's excessive buying and selling of policies owned by the Pettys during this time frame. (October 1, 2016 Affidavit of Harlan Wesley Petty, Exhibit 12 at ¶ 26).

AMY GUNTER MATTER

40. In April 2011, Respondent continued in the execution of his scheme by convincing Amy Gunter ("Individual B" referred to within the Respondent's federal Petition to Enter a Guilty Plea), to remove more than \$360,000 from her tax-deferred 401(k) investment with The Hartford, and to reinvest those funds into a new life insurance policy with North American Life Insurance Company, and within a new annuity with National Western. Ms. Gunter did as Respondent recommended. Respondent did not inform her that there would be a \$6,225.46 surrender penalty as to this transaction, and Respondent also received a commission as to this transaction. (Respondent's August 24, 2016 Petition to Enter a Plea of Guilty, Order, and Plea Agreement, filed in *U.S.A. v. John Oscar Wilson*, Case No. 3:16-cr-00047, at p. 5 of the Plea Agreement, Exhibit 5; Order of Summary Suspension, Findings of Fact ¶¶ 73-74, Exhibit 3).

41. A little more than a year later, in May 2012, Respondent convinced Ms. Gunter to remove funds from her National Western policy, but did not advise her of the \$33,100.76 surrender penalty that she would incur due to this early withdrawal. In June 2012, Respondent advised Ms. Gunter to invest approximately \$100,000 of the funds which were just withdrawn from the National Western policy, into another annuity with Phoenix

Wealth Management, thereby earning another commission for himself. (Respondent's August 24, 2016 Petition to Enter a Plea of Guilty, Order, and Plea Agreement, filed in *U.S.A. v. John Oscar Wilson*, Case No. 3:16-cr-00047, at pp. 5-6 of the Plea Agreement, Exhibit 5; Order of Summary Suspension, Findings of Fact ¶¶ 86-88, Exhibit 3).

42. Moreover, in June 2012, Respondent convinced Ms. Gunter to invest an additional \$80,000 of the withdrawn funds into PFG without informing her that PFG was his own company, and allowing her to believe that PFG was another insurance company in which she was making another insurance investment. Respondent deposited Ms. Gunter's \$80,000 check into PFG's bank account, but he did not use these funds to purchase another insurance/annuity policy for her. Instead, Respondent used these funds for his personal benefit. (Respondent's August 24, 2016 Petition to Enter a Plea of Guilty, Order, and Plea Agreement, filed in *U.S.A. v. John Oscar Wilson*, Case No. 3:16-cr-00047, at pp. 5-6 of the Plea Agreement, Exhibit 5; Order of Summary Suspension, Findings of Fact ¶ 89, Exhibit 3).

43. In June 2013, Respondent persuaded Ms. Gunter to surrender the \$100,000 Phoenix Wealth Management annuity in its entirety, and to invest the proceeds in PFG, which Ms. Gunter believed to be another insurance investment. Ms. Gunter only received \$87,723.36 upon the surrender of this \$100,000 annuity and Respondent did not inform her that there would be a surrender penalty of \$13,276.64. On July 3, 2013, at Respondent's direction, Ms. Gunter wired \$88,000 from her First Tennessee Bank account to Respondent's PFG account at Fifth Third Bank. This \$88,000 was not used to purchase another annuity or insurance policy for Ms. Gunter, but instead was used for Respondent's personal benefit. (Respondent's August 24, 2016 Petition to Enter a Plea of Guilty, Order, and Plea Agreement, filed in *U.S.A. v. John Oscar Wilson*, Case No. 3:16-

cr-00047, at p. 6 of the Plea Agreement, Exhibit 5; Order of Summary Suspension, Findings of Fact ¶¶ 97-100, Exhibit 3).

44. According to the Respondent's federal court guilty plea, Ms. Gunter's total loss to Respondent due to his fraudulent scheme was \$180,000. (Respondent's August 24, 2016 Petition to Enter a Plea of Guilty, Order, and Plea Agreement, filed in *U.S.A. v. John Oscar Wilson*, Case No. 3:16-cr-00047, at p. 6 of the Plea Agreement, Exhibit 5).

DONNA J. SIEWERT MATTER

45. Donna J. Siewert is 78 years old, and resides in Loudon, Tennessee. In or about 1985, she purchased two (2) life insurance policies - one for her husband Bob and one for herself, for \$100,000 each from The Hartford. During early 2011, Ms. Siewert heard Respondent's radio advertisement on The Retirement Solutions Show, promoting tax free retirement and she called the number provided, which was that of the Respondent. Respondent returned her call and made an appointment to meet with her for the purposes of bringing her the advertised free book and discussing investment opportunities with her. Respondent talked about investments for hours on that first visit, and kept coming back every week for several months. Respondent always told Ms. Siewert not to worry - that he's "been doing investments for 30 years." (September 28, 2016 Affidavit of Donna J. Siewert, Exhibit 11 at ¶¶ 1, 3-4).

46. At that time, Respondent kept telling Ms. Siewert that she needed to cash in these two (2) Hartford life insurance policies, telling her that they weren't making her any money. At Respondent's continuous urging, she cashed in the Hartford policies and ended up with approximately \$98,000. Respondent took that money, telling her he was going to open up a great insurance policy that would provide monthly income, and guaranteed long-term care insurance. Upon Respondent's advice and urging, Ms. Siewert

opened a life insurance policy with Life Insurance Company of the Southwest (“LSW”), with an effective date of April 20, 2011. This policy had a face value of \$3,000,000, and very high minimum monthly premium payments of approximately \$8,875.50, and an annual premium payable in the approximate amount of \$193,000. This policy was impossible for Ms. Siewert to pay considering her financial condition at the time of application, and has remained impossible for her to afford throughout her dealings with Respondent. Respondent never told her that on a certain date she would have to put more money into the policy, and would always say “don’t worry about it; this will all be o.k.; it’s all good.” (September 28, 2016 Affidavit of Donna J. Siewert, Exhibit 11 at ¶ 5).

47. Respondent repeatedly advised Ms. Siewert to obtain this extraordinarily expensive \$3,000,000 LSW life insurance policy, despite knowing her annual income at that time was approximately \$75,000. Instead of locating a more affordable and appropriate investment for her, Respondent pressured her to sell all her real estate holdings to fund the LSW life insurance policy, though it was very difficult to sell any real estate in her area at the time during a recession. On or about April 20, 2011, upon the advice of Respondent, Ms. Siewert sent a check to LSW in the amount of approximately \$143,000 for the purpose of funding her LSW life insurance policy. Further, for the purpose of funding this expensive LSW life insurance policy, and at the insistence of Respondent, on or about May 2, 2011, Ms. Siewert surrendered her existing approximate \$26,022.98 Lincoln Variable Life Insurance Company (“Lincoln”) variable life insurance policy. She incurred tax penalties due to this surrender. (September 28, 2016 Affidavit of Donna J. Siewert, Exhibit 11 at ¶¶ 6-7).

48. On or about May 2, 2011, for the purpose of providing LSW payment to ensure the policy remained in force so they could retain commissions on the sale of the policy,

Respondent sent Ms. Siewert a check in the amount of \$18,650.00, although they should have known that there were not sufficient funds for such a transaction in PFG's bank account at the time. Consequently, on or about May 5, 2011, this PFG check for \$18,650 which was deposited into Ms. Siewert's account was returned due to insufficient funds. A few days later, on or about May 5, 2011, Respondent wired \$18,650 to her for the purpose of helping with payment of her LSW life insurance policy, so Respondent could get his commission. On or about May 9, 2011, Respondent sent a second check to Ms. Siewert for \$18,650, although he should have known that there were not sufficient funds for such a transaction in PFG's bank account at the time. Again, on or about May 11, 2011, this second PFG check issued by Respondent and deposited into her account was returned due to insufficient funds. (September 28, 2016 Affidavit of Donna J. Siewert, Exhibit 11 at ¶¶ 8-9).

49. On or about May 10, 2011, upon the advice of Respondent, Ms. Siewert surrendered her existing Hartford annuity in the amount of \$20,864.51 for the purpose of funding this expensive LSW life insurance policy, and approximately 10 days later, on or about May 20, 2011, Respondent convinced her to wire him \$18,517, which she did. On or about February 20, 2013, knowing that Ms. Siewert lacked sufficient funds, Respondent advised her that he would send a check for \$37,000 for her to deposit, and that she was then to write and send her own personal check for \$37,000 to LSW to fund this policy. This \$37,000 check dated February 20, 2013 which Respondent sent Ms. Siewert on his PFG account, was the third check he issued to her that was returned due to insufficient funds. However, inasmuch as she had already mailed her own \$37,000 check to LSW on February 20, 2013, her own check bounced and she was assessed returned check fees. (September 28, 2016 Affidavit of Donna J. Siewert, Exhibit 11 at ¶¶ 10-11).

50. Respondent sent Ms. Siewert a fourth PFG check for \$37,000 on February 25, 2013, apparently knowing, yet again, that there were not sufficient funds for such a transaction in PFG's bank account. Approximately three days later, this fourth bad check from Respondent's PFG account in the amount of \$37,000 deposited into Ms. Siewert's account was returned on February 28, 2013, due to insufficient funds. (September 28, 2016 Affidavit of Donna J. Siewert, Exhibit 11 at ¶ 12).

51. The next thing Respondent told Ms. Siewert was that a reverse mortgage was the next best thing since "sliced bread." He told her that having a house that is paid off is the worst thing she could do, and stated that she could get a lot for her house, approximately \$800,000. Respondent pressured her into taking a reverse mortgage through his acquaintance, Phillip Fenton, of Nashville. Ms. Siewert reluctantly agreed, and in order to fund her LSW life insurance policy, she completed a reverse mortgage on or about February 26, 2013, which yielded approximately \$264,469.07. At the time of the reverse mortgage, her home was completely paid off, and she owed only property taxes on the house each year. Her home is a six (6) bedroom, six (6) bathroom historical landmark house, which at the time was worth, at an absolute minimum, twice the amount received in Respondent's recommended reverse mortgage. Ms. Siewert's home operated as The Mason Place Bed and Breakfast until a few years prior to September 2016. (September 28, 2016 Affidavit of Donna J. Siewert, Exhibit 11 at ¶ 13).

52. On or about March 1, 2013, Respondent convinced Ms. Siewert to wire \$67,469 from her reverse mortgage proceeds to PFG's bank account for the purpose of funding her LSW life insurance policy. Ms. Siewert has since learned that Respondent only sent LSW \$4,858 from his PFG account during the month of March 2013, on or about the 5th of that month. Respondent again requested, and Ms. Siewert agreed, to wire \$130,000

from her reverse mortgage proceeds on or about April 12, 2013 to PFG's bank account for the purpose of funding the LSW life insurance policy. She has since learned that out of this \$130,000 that she wired to Respondent in April 2013, on or about April 17, 2013, Respondent remitted only \$100,000 to LSW for funding her LSW life insurance policy. . (September 28, 2016 Affidavit of Donna J. Siewert, Exhibit 11 at ¶ 14).

53. Respondent did send monthly premium payments of \$8,875.50 from his PFG account to LSW for Ms. Siewert's LSW life insurance policy, on or about February 20, 2014, and March 27, 2014. This pattern continued into 2014. On or about March 31, 2014, without Ms. Siewert's knowledge or permission, Respondent submitted an application for life insurance with Midland National Life Insurance Company ("Midland National") for Ms. Siewert. In so applying, Respondent forged her signature on the Midland National life insurance application. (September 28, 2016 Affidavit of Donna J. Siewert, Exhibit 11 at ¶¶ 15-16, and attachments A and B to this Exhibit).

54. On or about April 19, 2014, Respondent forged Ms. Siewert's signature on two (2) Veris Settlement Partners documents, which were subsequently submitted to LSW requesting information about her LSW life insurance policy. Veris Settlement Partners claims to be a firm of life insurance experts who can provide in some instances a fair market value that may be several times greater than the cash surrender value of life insurance policies that have become unneeded, unwanted or unaffordable. (September 28, 2016 Affidavit of Donna J. Siewert, Exhibit 11 at ¶ 17, and attachments C and D to this Exhibit).

55. On or about April 28, 2014, Respondent sent a PFG check in the amount of \$8,875.50 to LSW for Ms. Siewert's LSW life insurance policy, even though he did not have sufficient funds in the PFG account to make such payment at that time. As a result

of this insufficient funds check sent by Respondent, on or about May 12, 2014, this payment was removed from her LSW life insurance policy. On or about May 8, 2014, Respondent instructed Ms. Siewert to write a \$185,000 check to fund the Midland National policy, despite her objections that she did not have sufficient funds for such a payment. Ms. Siewert nonetheless complied and sent Respondent this \$185,000 check made payable to Midland National on May 8, 2014. Even though Respondent assured Ms. Siewert he would not allow this check to be deposited, Respondent attempted to deposit the check on two (2) separate occasions on May 19 and May 21, 2014. Ms. Siewert's check for \$185,000 was returned, not surprisingly, for insufficient funds, causing her to incur approximately \$70 in returned check fees. (September 28, 2016 Affidavit of Donna J. Siewert, Exhibit 11 at ¶¶ 18-19, and attachments E and F to this Exhibit).

56. To fund this unaffordable LSW life insurance policy sold to Ms. Siewert by Respondent, Ms. Siewert paid a total of \$180,000 directly to LSW between 2011 and 2014. Additionally, solely for the purpose of funding her LSW life insurance policy and with the belief and expectation that Respondent would appropriately remit the funds to LSW, she gave a total of \$197,336 directly to Respondent between 2011 and 2014. (September 28, 2016 Affidavit of Donna J. Siewert, Exhibit 11 at ¶¶ 20-21).

57. Out of the \$197,336 Ms. Siewert paid directly to Respondent for the purpose of funding her LSW life insurance policy, Respondent only remitted \$122,609 of her funds to LSW for the purpose of funding her LSW life insurance policy, between 2011 and 2014, establishing that Respondent misappropriated and converted to his own use \$74,727 of Ms. Siewert's funds which were earmarked to go to LSW for payment toward that life insurance policy. Through the present, Respondent has not returned or remitted

any of the \$74,727 he misappropriated from Ms. Siewert. (September 28, 2016 Affidavit of Donna J. Siewert, Exhibit 11 at ¶¶ 22-24).

VISHNU AND PHILOMENA CHOWBAY

58. Vishnu and Philomena Chowbay (“the Chowbays”) are retirees who reside in La Vergne, Tennessee. They first met Respondent in or about late 2002 or early 2003, when Ms. Chowbay retired from Cigna Healthcare and Respondent assisted her in applying for Medicare, specifically Healthspring+ health insurance. Sometime during 2005, Mr. Chowbay contacted Respondent and requested his assistance in Mr. Chowbay’s application for Healthspring+ health insurance as well. At this time, in or about 2005, Respondent told the Chowbays that if they invested with him, they could earn a greater return on their investments than what they were earning at that time. (September 26, 2016 Affidavit of Vishnu Chowbay, Exhibit 9 at ¶¶ 1-5).

59. Prior to Respondent’s taking over the Chowbays’ investments, they owned two (2) term life insurance policies with MetLife, which would provide benefits to a surviving spouse should one pass away before the other, each worth approximately \$50,000. The premium for these policies cost the Chowbays approximately \$100 per policy per month. On or about September 22, 2009, Respondent convinced them to cancel their two (2) MetLife term life insurance policies and replace them with an Allianz joint last survivor policy, a policy which did not meet their needs. (September 26, 2016 Affidavit of Vishnu Chowbay, Exhibit 9 at ¶¶ 6-7).

60. The Allianz joint last survivor policy only provides a death benefit to the Chowbays’ children once both of them die; it does not provide any benefit to one spouse after the other has passed away. This Allianz joint last survivor policy has an annual premium of approximately \$20,703, with monthly premium payments averaging

approximately \$3,000, an amount in excess of that which the Chowbays could afford then or now. The Chowbays told Respondent their financial condition in 2009 when he recommended this Allianz policy and he knew, based on their financial condition, that they could not afford this Allianz joint last survivor policy. (September 26, 2016 Affidavit of Vishnu Chowbay, Exhibit 9 at ¶¶ 8-9).

61. Respondent failed to fully explain the Allianz joint last survivor policy to the Chowbays. Had he properly explained this Allianz joint last survivor policy to them, they would not have purchased the policy, as it does not benefit a surviving spouse as was their desire. On February 1, 2011, Respondent came to the Chowbays' home and picked up their personal check no. 1841 written that day in the amount of \$5,137, made payable to Allianz for premium payment on their Allianz joint last survivor policy. (September 26, 2016 Affidavit of Vishnu Chowbay, Exhibit 9 at ¶¶ 10-11).

62. On or about February 1, 2011, Respondent materially altered the Chowbays' February 1, 2011 check by adding the words "or PFG" after the word "Allianz" on the "Pay to the order of" line on said check. Respondent also misappropriated these funds from the Chowbays by depositing this check intended for Allianz into PFG's bank account. (September 26, 2016 Affidavit of Vishnu Chowbay, Exhibit 9 at ¶ 12, and attachment A to this Exhibit).

63. On or about December 2, 2011, when Respondent came to the Chowbays' home to pick up a premium payment due Allianz for the next year, Mr. Chowbay wrote check no. 1944 on their personal bank account in the amount of \$10,000, made this check payable to Allianz for payment on their Allianz joint last survivor policy, and gave this check to Respondent. On or about December 2, 2011, while Respondent was at his bank, he phoned Mr. Chowbay and asked whether he could make this \$10,000 check payable to

PFG. Mr. Chowbay told Respondent no in response to this request. Instead, Respondent materially altered the Chowbays' checks a second time by adding the words "or PFG" after the word "Allianz" on the "Pay to the order of" line of their December 2, 2011 check. Mr. Chowbay inadvertently dated the check as "2012" but he gave it to Respondent on or about December 2, 2011 according to his check register. (September 26, 2016 Affidavit of Vishnu Chowbay, Exhibit 9 at ¶¶ 13-14).

64. After altering the Chowbays' December 2, 2011 check, on or about that same day, Respondent attempted to deposit this check into PFG's bank account. However, Respondent's bank would not accept the check as written, and gave the check back to him. Respondent then wrote the word "void" on the check in five (5) locations and returned it to the Chowbays a few days after December 2, 2011. After learning that Respondent altered their December 2, 2011 check and attempted to deposit it into his PFG account against Mr. Chowbay's instructions, Mr. Chowbay contacted Allianz Life representatives in early December 2011 expressing his displeasure with Respondent's actions and inquiring whether Allianz had received and credited to the Chowbays' policy the February 1, 2011 check for \$5,137, which was written ten (10) months earlier. Mr. Chowbay learned from Allianz that it had never received this February 1, 2011 check or received that payment from Respondent. (September 26, 2016 Affidavit of Vishnu Chowbay, Exhibit 9 at ¶¶ 15-16, and attachment B to this Exhibit).

65. Mr. Chowbay faxed a copy of the canceled February 1, 2011 check to Allianz representatives on or about December 7, 2011, and understood that Allianz began an investigation of this matter at or around that point. Mr. Chowbay did not learn until early December 2011, that the Chowbays' payment of the \$5,137 to Allianz made on February 1, 2011, had never been received by Allianz. Mr. Chowbay then phoned Respondent in

early December 2011 and asked Respondent what happened to the \$5,137 payment of February 2011, and Respondent lied to him by stating that this payment had been applied to the Chowbays' Allianz policy. (September 26, 2016 Affidavit of Vishnu Chowbay, Exhibit 9 at ¶¶ 17-18).

66. On or about December 27, 2011, Respondent delivered to the Chowbays a cashier's check in the amount of \$5,495.79, intended as repayment (with some interest added) of the misappropriated funds, which the Chowbays intended to be paid to Allianz on or around February 1, 2011. Through the present, the Chowbays are still struggling to pay their Allianz joint last survivor policy premium payments, as they have no other life insurance policies, due to the bad advice given them by Respondent. (September 26, 2016 Affidavit of Vishnu Chowbay, Exhibit 9 at ¶¶ 19-20, and attachment C to this Exhibit).

**FILING OF FEDERAL CRIMINAL CHARGES, GUILTY PLEA AND
CONVICTION**

67. On March 10, 2016, the U. S. Attorney for the Middle District of Tennessee filed a two (2) count Information against the Respondent alleging violations of the federal wire fraud statute, 18 U.S.C. §1343, based on his scheme as set forth above relative to fraud perpetrated against persons referred to as "Individual A" and "Individual B." (Certified copy of Information filed against Respondent in *U.S.A. v. John Oscar Wilson*, Case No. 3:16-cr-00047, U.S. District Court, M.D. Tenn., on March 10, 2016, Exhibit 4).

68. On August 24, 2016, the government and Respondent filed with the U.S. District Court a Petition to Enter a Plea of Guilty to both counts of the Information, which included an Order of the U.S. District Court, and a Plea Agreement signed by Respondent on August 24, 2016. (Certified copy of Petition to Enter a Guilty Plea, Order and Plea

Agreement, filed in *U.S.A. v. John Oscar Wilson*, Case No. 3:16-cr-00047, U.S. District Court, M.D. Tenn., on August 24, 2016, Exhibit 5).

69. On May 31, 2017, the U.S. District Court entered its Judgment in a Criminal Case upon Respondent's guilty plea, convicting Respondent of two counts of wire fraud (a felony offense) in violation of 18 U.S.C. § 1343. Pursuant to this Judgment, Respondent was sentenced to 52 months incarceration with the U.S. Bureau of Prisons for each count (concurrent), and was ordered to surrender to the United States Marshal on June 16, 2017. (Certified copy of Judgment in a Criminal Case, filed in *U.S.A. v. John Oscar Wilson*, Criminal Case No. 3:16-cr-00047, U.S. District Court, M.D. Tenn., on May 31, 2017, Exhibit 6).

70. All five (5) of the above named victims (Ms. Blevins, Ms. Gunter, the Chowbays, the Pettys, and Ms. Siewert), are listed within the U.S. District Court's May 31, 2017 Judgment to receive restitution from the Respondent. The total amount of restitution to all of Respondent's victims ordered by the U.S. District Court is \$841,629.88, and the Court listed twelve (12) more victims of Respondent's fraud, in addition to the five (5) victims referred to above. (Certified copy of Judgment in a Criminal Case, filed in *U.S.A. v. John Oscar Wilson*, Criminal Case No. 3:16-cr-00047, U.S. District Court, M.D. Tenn., on May 31, 2017, Exhibit 6).

CONCLUSIONS OF LAW

1. In accordance with Tenn. Comp. R. & Regs. 1360-04-01-.02(7) and 1360-04-01-.15(3), the Petitioner has proven by a preponderance of evidence that the facts alleged in the Notice of Hearing and Charges pertaining to the Respondent are true and that the issues raised therein should be resolved in its favor.

2. Tenn. Code Ann. Title 56, specifically Tenn. Code Ann. §§ 56-1-202 and 56-6-112 (the “Law”), places the responsibility for the administration of the Law on the Commissioner of the Tennessee Department of Commerce and Insurance (“Commissioner”). The Division is the lawful agent through which the Commissioner discharges this responsibility.

3. On September 29, 2016, the Petitioner filed for the record and served upon Respondent its Tenn. Code Ann. § 4-5-313 Notice of Intent to Introduce Affidavits of Kimberly Biggs, John Perry Warden, Vishnu Chowbay, Tracy L. Blevins, and Donna J. Siewert (along with Chowbay’s, Blevins’, and Siewert’s attachments to affidavits). On October 3, 2016, the Petitioner filed and served upon Respondent its Tenn. Code Ann. § 4-5-313 Notice of Intent to Introduce Affidavit of Harlan Wesley Petty (along with his attachments). Both the September 29, and the October 3, 2016 Notices were served upon Respondent at his Antioch, Tennessee residential address by Fedex Standard Overnight Delivery. Respondent did not request the opportunity to cross-examine any of these six (6) affiants within seven (7) days after service of the Affidavits, as is required pursuant to Tenn. Code Ann. § 4-5-313(2), or object to the introduction of the authenticated exhibits attached to the affidavits of Ms. Blevins, Mr. Chowbay, Ms. Siewert, and Mr. Petty. Based thereon, these six (6) referenced affidavits were admitted into evidence at the January 11, 2018 hearing and are given the same effect as if these affiants had testified orally. (*See* the Petitioner’s Motion to Deem Respondent’s Right to Cross Examination of Affiants Waived, filed into the record and served on December 28, 2017).

4. To the extent that Respondent has attempted to deny, in his testimony at the January 11, 2018 hearing, the matters that were admitted by Respondent in his federal guilty plea, and that were adjudicated against him in the U.S. District Court criminal

prosecution, this Court finds that Respondent is collaterally estopped, in this later administrative proceeding brought by Petitioner, from denying such matters and that the criminal judgment in favor of the U.S. government is preclusive in favor of the Petitioner in this civil administrative proceeding, pursuant to the Tennessee Supreme Court's opinion in *Bowen ex rel. Doe v. Arnold*, 502 S.W.3d 102, 113 (Tenn. 2016) (citing Restatement (Second) of Judgments § 85(2)(a)). This Court also finds that the Respondent was fully apprised of his right to plead not guilty in the U.S. District Court, to have a speedy and public trial, and to have the process of that court to compel the attendance of any witnesses in his favor at any such trial. This Court also finds that Respondent knowingly waived such rights by entering into said guilty plea.

5. Tenn. Code Ann. §§ 56-6-112(a)(4), (a)(6), (a)(8), and (a)(10) provide:

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:

- ...
(4) Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business;
- ...
(6) Having been convicted of a felony;
- ...
(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
- ...
(10) Forging another's name to an application for insurance or to any document related to an insurance transaction[;]

6. The Division has shown by a preponderance of the evidence that the Respondent on numerous occasions, improperly misappropriated or converted, and improperly withheld moneys he received from all five (5) of the above named victims who were his

insurance clients in violation of Tenn. Code Ann. § 56-6-112(a)(4); that he has been convicted of a felony offense in violation of Tenn. Code Ann. § 56-6-112(a)(6); that he used fraudulent, coercive or dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility multiple times with respect to his above actions regarding the five (5) above named victims in violation of Tenn. Code Ann. § 56-6-112(a)(8); and that he forged the names of others to applications for insurance and insurance related documents several times, in violation of Tenn. Code Ann. § 56-6-112(a)(10).

7. Tenn. Code Ann. § 56-6-112(g) provides, in pertinent part:

(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.

8. It is determined that the proof adduced at hearing provides adequate grounds for the revocation of Respondent's Tennessee insurance producer license, and for the imposition of a civil penalty against Respondent in the total amount of \$188,000, for his multiple violations of Tenn. Code Ann. §§ 56-6-112(a)(4), (a)(6), (a)(8), & (a)(10), detailed above. This Court also notes that the Division could have sought, and the Court

could have assessed, a higher civil penalty against this Respondent based on the proof admitted, the egregiousness of Respondent's violations, and the fact that a separate \$1,000 civil penalty could be assessed for each day of Respondent's continuing violations of the many subsections of Tenn. Code Ann. § 56-6-112, which continue to the present. However, given the imposition of a substantial restitution order of \$841,629.88 by the U.S. District Court to compensate the victims of Respondent's fraudulent scheme, this Court finds that the assessment of a \$187,000 civil penalty is justified by the interests of the general public and the additional factors mentioned in Tenn. Code Ann. § 56-6-112(h).

IT IS, THEREFORE, ORDERED that:

1. The Respondent's Tennessee resident insurance producer license (No. 0654322) **be and hereby is, REVOKED**, due to his actions in violation of Tenn. Code Ann. §§ 56-6-112(a)(4), (a)(6), (a)(8), & (a)(10), as described above.
2. Due to the above violations, the Respondent is **ASSESSED CIVIL PENALTIES** of \$187,000, pursuant to Tenn. Code Ann. § 56-6-112(g)(2), calculated as follows:

AMY GUNTER MATTER

a) for the Respondent's engaging in fraudulent, coercive and dishonest practices and demonstrating incompetence and untrustworthiness by failing three (3) times to advise this victim as to surrender penalties she would incur: (i) when he advised her to surrender her Hartford tax-deferred IRA or 401(k) in April 2011 causing her a \$6,225.46 surrender penalty; (ii) when he advised her to surrender a substantial portion of her National Western annuity in May 2012, causing her to suffer a surrender penalty of \$31,100.76; and (iii) when he advised her to surrender her entire Phoenix Wealth Management fixed annuity in June 2013, causing her to suffer a surrender penalty of \$13,276.64, a civil penalty of \$1,000 is assessed for each of these three (3) violations of Tenn. Code Ann. § 56-6-112(a)(8), or a subtotal of **\$3,000** for these violations. In addition, for the Respondent's misappropriation of \$180,000 from Ms. Gunter between June 2012 and June 2013 as Respondent admitted in the U.S. District Court plea agreement, in violation of Tenn. Code Ann. § 56-6-112(a)(4), and for his continued withholding of this sum from Ms.

Gunter through the present, which is a continuing violation of § 56-6-112(a)(4), an aggregate penalty of **\$50,000**, resulting in a total assessment as to Ms. Gunter's matter of **\$53,000**, pursuant to Tenn. Code Ann. § 56-6-112(g)(2);

DONNA J. SIEWERT MATTER

b) for the Respondent's engaging in at least seven (7) fraudulent, coercive and dishonest practices as to Ms. Siewert where he demonstrated untrustworthiness: (i) by selling her an unsuitable LSW life insurance policy in April 2011, given that the LSW policy required approximate annual premiums of \$193,000 even though Respondent knew that Ms. Siewert's annual income was only \$75,000; (ii)—(vi) by writing and sending to her and to LSW five (5) insufficient funds checks from his PFG account for purposes of funding the LSW insurance policy; and (vii) by coercing her to send him a check totaling \$185,000 made payable to Midland National Life in May 2014, where Ms. Siewert informed Respondent that she did not have the funds within her account to cover such a check, and where Respondent defrauded her by informing her he would not attempt to deposit the check yet did so twice in mid to late May 2014, a civil penalty of \$1,000 is assessed for each of these seven (7) violations of Tenn. Code Ann. § 56-6-112(a)(8), or a subtotal of **\$7,000** for these violations. Further, for the Respondent's three (3) forgeries of Ms. Siewert's signature: (i) on the Midland National Life application in March 2014, and (ii) – (iii) the two (2) Veris Settlement Partners documents in April 2014, a civil penalty of \$1,000 is assessed for each of these three (3) violations of Tenn. Code Ann. § 56-6-112(a)(10), or a subtotal of **\$3,000** for these violations. Further still, for the Respondent's misappropriation and conversion to his own use of \$74,727 of Ms. Siewert's funds that were paid to Respondent for the purpose of funding her LSW policy, in violation of Tenn. Code Ann. § 56-6-112(a)(4), and for his continued withholding of this sum from Ms. Siewert through the present, which is a continuing violation of § 56-6-112(a)(4), an aggregate penalty of **\$50,000**, resulting in a total assessment as to Ms. Siewert's matter of **\$60,000**, pursuant to Tenn. Code Ann. § 56-6-112(g)(2);

TRACY L. BLEVINS MATTER

c) for the Respondent's engaging in at least two (2) fraudulent, dishonest, or coercive practices as to Ms. Blevins where he demonstrated untrustworthiness: (i) by failing to inform this client of the tax liability she would suffer by removing all of her funds from her Castner Knott 401(k) at age 38, in 2008; and (ii) by failing to inform her again in September 2010 that she would face a surrender penalty and adverse tax consequences by removing the \$15,000 she had invested in the Allianz 10 year annuity only two (2) years earlier, in 2008, a civil penalty of \$1,000 is assessed for each of these two violations of Tenn. Code Ann. § 56-6-

112(a)(8), or a subtotal of **\$2,000** for these violations. In addition, for the Respondent's misappropriation of \$11,721.55 of Ms. Blevins' funds which were converted to his own use, and which have been improperly withheld from her through the present, a **\$20,000** aggregate civil penalty is assessed due to the Respondent's continuing violations of Tenn. Code Ann. § 56-6-112(a)(4), resulting in a total assessment as to Ms. Blevins' matter of **\$22,000**, pursuant to Tenn. Code Ann. § 56-6-112(g)(2);

HARLAN AND BARBARA PETTY

d) for the nine (9) instances in which Respondent engaged in fraudulent, coercive or dishonest practices as to the Pettys which demonstrated incompetence and untrustworthiness: (i) – (vi) by failing to advise these clients that they would face surrender penalties regarding the six (6) surrenders Respondent recommended dated January 20, 2011 (from their The Hartford account), June 30, 2011 (from their Allianz annuity), May 17, 2012 (from their first National Western Life annuity), May 17, 2012 (from their second National Western Annuity), August 7, 2013 (from their Phoenix Life annuity), April 9, 2014 (from their Equi Trust Life annuity); (vii) for his recommendation that the Pettys invest within a reverse mortgage where this product was not suitable for them given that they received no proceeds; and (viii) – (ix) for the two (2) instances in which Respondent told the Pettys that the government would not uncover the fact that they owed tax penalties for calendar year 2011, and in which he sent a false and misleading letter to the IRS in July 2013, a civil penalty of \$1,000 is assessed for each of these nine (9) violations of Tenn. Code Ann. § 56-6-112(a)(8), or a subtotal of **\$9,000** for these violations. In addition, the Respondent's failure or refusal through the present to make the Pettys whole by providing restitution to them for the \$39,000 in surrender penalties to insurance companies between 2011 and 2014 which they lost, and for the \$36,750 in additional federal income tax liability that they incurred over that period for following Respondent's advice, a **\$30,000** aggregate civil penalty is assessed due to the Respondent's continuing violations of Tenn. Code Ann. § 56-6-112(a)(8), resulting in a total assessment as to the Pettys' matter of **\$39,000**, pursuant to Tenn. Code Ann. § 56-6-112(g)(2);

VISHNU AND PHILOMENA CHOWBAY

e) for the Respondent's engaging in at least two (2) fraudulent, dishonest, or coercive practices as to the Chowbays where Respondent demonstrated untrustworthiness: (i) for his fraudulent actions in altering the Chowbays' February 1, 2011 check to Allianz for \$5,137 (by adding the words "or PFG" on the "Pay to the Order of" line); and (ii) for his fraudulent actions in adding "PFG" as a payee on the Chowbays' December 1, 2011 check made payable to Allianz, and his attempt to deposit this check into his PFG account, where Mr. Chowbay had told

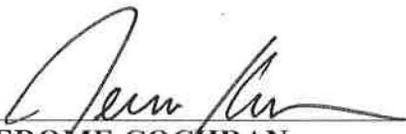
Respondent not to do this, a civil penalty of \$1,000 is assessed for each of these two (2) violations of Tenn. Code Ann. § 56-6-112(a)(8), or a subtotal of **\$2,000** for these violations. In addition, for the Respondent's misappropriation of the Chowbays' \$5,137 check written to Allianz, which Respondent surreptitiously deposited into his own PFG account and withheld from the Chowbays for nearly eleven (11) months until late December 2011, a **\$10,000** aggregate civil penalty is assessed due to the Respondent's continuing violations of Tenn. Code Ann. § 56-6-112(a)(4) for that approximately eleven month period, resulting in a total assessment as to the Chowbays' matter of **\$12,000**, pursuant to Tenn. Code Ann. § 56-6-112(g)(2); and

FEDERAL COURT FELONY CONVICTION

(f for the Respondent's criminal conviction in the U.S. District Court for the Middle District of Tennessee dated May 31, 2017 of violating 18 U.S.C. § 1343 (mail fraud), which is constitutes a felony conviction in violation of Tenn. Code Ann. § 56-6-112(a)(6), a **\$1,000** civil penalty is assessed pursuant to Tenn. Code Ann. § 56-6-112(g)(2).

3. The Respondent, and any and all persons who may assist him in any of the aforementioned violations of Tenn. CODE Ann. § 56-6-112, **shall CEASE and DESIST** from any such activities.
4. The Petitioner's Notice of Hearing and Charges is amended, pursuant to Tenn. R. Civ. P. 15.02, to conform to the issues tried by implied consent and the evidence introduced at hearing, so as to ensure that the Notice of Hearing and Charges is consistent with the INITIAL ORDER entered herein and the evidence introduced at the January 11, 2018 hearing.
5. This INITIAL ORDER, imposing sanctions against the Respondent, is entered to protect the public and consumers of insurance products in Tennessee, consistent with the purposes fairly intended by policy and provisions of the Law.

This INITIAL ORDER entered and effective this the 14th day of February, 2018.

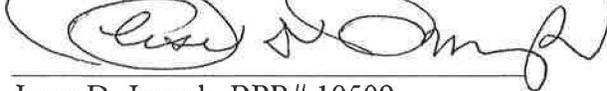


JEROME COCHRAN
ADMINISTRATIVE JUDGE
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

Filed in the Administrative Procedures Division, Office of the Secretary of State, this the 14th of February 2018.


J. RICHARD COLLIER, DIRECTOR
CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

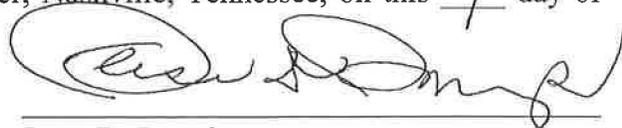
APPROVED FOR ENTRY:



Jesse D. Joseph, BPR# 10509
Assistant General Counsel-Litigation
TN Department Of Commerce and Insurance
500 James Robertson Parkway, 8th Floor
Nashville, Tennessee 37243
Telephone: (615) 253-4701
Jesse.Joseph@tn.gov

Certificate of Service

I hereby certify that I have served a copy of the Petitioner's Proposed Initial Order upon the Respondent, by forwarding, via first class mail, a copy of same to Respondent John Oscar Wilson, III, Register No. 24732-075, USP McCreary, P.O. Box 3000, Pine Knot, KY 42635, and that I have filed the original of this Proposed Initial Order with the Office of the Secretary of State, Administrative Procedures Division, 8th Floor, Wm. R. Snodgrass Tennessee Tower, Nashville, Tennessee, on this 9 day of February, 2018.



Jesse D. Joseph

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.