



State of Tennessee
Department of State
Administrative Procedures Division
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March 8, 2021

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General Civil - Legal Division
500 James Robertson Parkway, 5th Floor
Nashville, TN 37243

Desaree Owens
3887 Rim Creek Lane
Bartlett, TN 38135

**RE: TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE V. DESAREE
OWENS, APD Case No. 12.01-202405J**

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.

DESAREE OWENS,

Respondent.

APD Case No. 12.01-202405J

INITIAL ORDER

This matter came to be heard on November 16, 2020, before the Honorable Michael Begley, assigned by the Secretary of State, Administrative Procedures Division, sitting on behalf of the Commissioner of Commerce and Insurance. Associate General Counsel for the Department, Renita Hollins, represented the Insurance Division (“Division”) of the Tennessee Department of Commerce and Insurance (“Department”). The Respondent did not appear, and no one appeared on his behalf.

ORDER OF DEFAULT

The State presented proof that the Notice of Hearing and Charges (“NOHC”) was served to the Respondent via certified mail and regular U.S. mail. The Division obtained the Respondent’s address information from its CLEAR database. The address is 3887 Rim Creek Lane, Bartlett, Tennessee 38135-1510. The NOHC was sent via regular U.S. mail as well as certified mail, return receipt. The regular U. S. mail was not returned, and the Respondent signed for the certified mail on May 26, 2020. The Division received the signed certified mail return receipt on May 29, 2020. After the Division received the certified mail return receipt, the Division filed the NOHC.

INITIAL ORDER

After consideration of the entire record, evidence, and testimony presented, the State has shown by a preponderance of the evidence that the Respondent's actions were in violation of Tenn. Code Ann. §§ 56-6-103, 56-6-112(a)(2) and (8). As a result, the Respondent is permanently banned from the sale of insurance in Tennessee, and the Respondent is ordered to pay a civil penalty of twenty-four thousand dollars (\$24,000), which represents twenty-four (24) violations of Tenn. Code Ann. § 56-6-103 as set out below:

- a. Martell Latimer – policy period, October 1, 2016 – March 1, 2017 equals six (6) violations;
- b. Shanita Owens – policy period, September 11, 2017 – March 11, 2018, equals six (6) violations;
- c. Lavisia Davis – policy period, August 1, 2017 – February 8, 2018, equals six (6) violations;
- d. Rita Mitchell – policy period, August 9, 2017 – February 8, 2018, equals six (6) violations.

Additionally, the Respondent owes twenty-four thousand dollars (\$24,000), for twenty-four (24) violations of Tenn. Code Ann. § 56-6-112(a)(2) as set out below:

- a. Martell Latimer –policy period, October 1, 2016 – March 1, 2017 equals six (6) violations;
- b. Shanita Owens – policy period, September 11, 2017 – March 11, 2018, equals six (6) violations;
- c. Lavisia Davis – policy period, August 1, 2017 – February 8, 2018, equals six (6) violations;

d. Rita Mitchell – policy period, August 9, 2017 – February 8, 2018, equals six (6) violations.

Also, the Respondent owes twenty-four thousand dollars (\$24,000), for twenty-four (24) violations of Tenn. Code Ann. § 56-6-112(a)(8) as set out below:

a. Martell Latimer– policy period, October 1, 2016 – March 1, 2017 equals six (6) violations;

b. Shanita Owens – policy period, September 11, 2017 – March 11, 2018, equals six (6) violations;

c. Lavisia Davis – policy period, August 1, 2017 – February 8, 2018, equals six (6) violations;

d. Rita Mitchell – policy period, August 9, 2017 – February 8, 2018, equals six (6) violations.

The total amount owed is seventy-two thousand dollars (\$72,000). The Respondent is also ordered to pay all court costs and investigatory costs in this matter. This determination is based on the following Proposed Findings of Facts and Conclusions of Law.

FINDINGS OF FACT

1. The Respondent never held a Tennessee insurance producer’s license.
2. The Respondent engaged in the insurance business, in the transactions described in the court hearing, as an unlicensed individual who was required to be licensed pursuant to Tenn. Code Ann. § 56-6-103.
3. The Respondent committed an unlawful insurance act by knowingly engaging in the solicitation, negotiation, and sale of an insurance product, without an insurance producer license,

in the case of Martell Latiker, in violation of Tenn. Code Ann. §§ 56-6-112(a)(2) and (8).

4. The Respondent committed an unlawful insurance act by knowingly engaging in the solicitation, negotiation, and sale of an insurance product, without an insurance producer license, in the case of Shanita Sanders, in violation of Tenn. Code Ann. §§ 56-6-112(a)(2) and (8).

5. The Respondent committed an unlawful insurance act by knowingly engaging in the solicitation, negotiation, and sale of an insurance product, without an insurance producer license, in the case of Lavisia Davis, in violation of Tenn. Code Ann. §§ 56-6-112(a)(2) and (8).

6. The Respondent committed an unlawful insurance act by knowingly engaging in the solicitation, negotiation, and sale of an insurance product, without an insurance producer license, in the case of Rita Mitchell, in violation of Tenn. Code Ann. §§ 56-6-112(a)(2) and (8).

7. The Respondent knowingly engaged in unfair trade practices as defined by Tenn. Code Ann. § 56-8-104(12) by making fraudulent representations to Tennessee insurance consumer Martell Latiker, related to the terms and conditions of an insurance policy for the purpose of obtaining money.

8. The Respondent knowingly engaged in unfair trade practices as defined by Tenn. Code Ann. § 56-8-104(12) by making fraudulent representations to Tennessee insurance consumer Shanita Sanders, related to the terms and conditions of an insurance policy for the purpose of obtaining money.

9. The Respondent knowingly engaged in unfair trade practices as defined by Tenn. Code Ann. § 56-8-104(12) by making fraudulent representations to Tennessee insurance consumer Lavisia Davis, related to the terms and conditions of an insurance policy for the purpose of obtaining money.

10. The Respondent knowingly engaged in unfair trade practices as defined by Tenn. Code Ann. § 56-8-104(12) by making fraudulent representations to Tennessee insurance consumer

Rita Mitchell, related to the terms and conditions of an insurance policy for the purpose of obtaining money.

11. The Respondent engaged in this fraudulent behavior multiple times. The Respondent's actions to continue to sell insurance products is a violation of Tenn. Code Ann § 56-6-103.

CONCLUSIONS OF LAW

1. The State has shown, by a preponderance of the evidence as set forth in the above Proposed Findings of Fact, that the Respondent's actions are in violation of Tenn. Code Ann § 56-6-103 which provides:

A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this part.

2. Also, Respondent's actions violated Tenn. Code Ann. § 56-8-103 which states:

No person shall engage in an unfair trade practice from, in or into this state that is defined in § 56-8-104 or § 56-8-106 or determined by rule pursuant to § 56-8-108 to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance. No person shall engage in an unfair claim practice that is defined in § 56-8-105 or determined by rule pursuant to § 56-8-108 to be an unfair claim practice. However, the commissioner may not levy a civil penalty or suspend or revoke a license for violating an unfair claim practice unless:

(1) It is committed knowingly; or

(2) It has been committed with such frequency as to indicate a general business practice.

3. Tenn. Code Ann. § 56-8-104 states:

The following practices are defined as unfair trade practices in the business of insurance by any person:

(1) Misrepresentations and false advertising of insurance policies. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement, sales presentation, omission or comparison that:

(A) Misrepresents the benefits, advantages, conditions or terms

of any policy[.] . . .

(12) Misrepresentation in insurance applications. Making false or fraudulent statements or representations on or relative to an application for a policy, for the purpose of obtaining a fee, commission, money or other benefit from any provider or individual person[.] . . .

4. The Respondent's actions are also in violation of Tenn. Code Ann. § 56-6-112(a)(2) and (8) which provides:

(a) The commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license issued under this part or may levy a civil penalty in accordance with this section or take any combination of those actions, for any one (1) or more of the following causes:

...

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

...

(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. Tenn. R. Civ. P. 54.04(1) and Tenn. Comp. R. & Regs. 1360-04-01-.01(1) respectively, provide as follows:

54.04. Costs. -

(1) Costs included in the bill of costs prepared by the clerk shall be allowed to the prevailing party unless the court otherwise directs, but costs against the state, its officers, or its agencies shall be imposed only to the extent permitted by law.

1360-04-01-.01(3) SCOPE.

(3) In any situation that is not specifically addressed by these rules, reference may be made to the Tennessee Rules of Civil Procedure for guidance as to the proper procedure to follow, where appropriate and to whatever extent will best serve the interests of justice and the speedy and inexpensive determination of the matter at hand.

6. Pursuant to the above authorities, the hearing costs incurred by the Division to the Administrative Procedures Division of the Secretary of State, and to the court reporter in this matter, should be assessed against the Respondent.

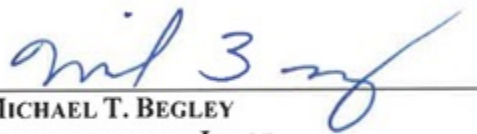
PROPOSED JUDGMENT

IT IS, THEREFORE, ORDERED that:

1. The Respondent, Desaree Owens, is permanently banned from the sale of insurance in the state of Tennessee.
2. The Respondent shall pay a civil penalty sum of seventy-two thousand dollars (\$72,000), which includes twenty-four (24) violations of Tenn. Code Ann. § 56-6-103; twenty-four (24) violations of Tenn. Code Ann. § 56-6-112(a)(2) and twenty-four (24) violations of Tenn. Code Ann. § 56-6-112(a)(8).
3. The Respondent shall be assessed the costs of this proceeding, including court costs and court reporter costs.

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **8th day of March, 2021**.



MICHAEL T. BEGLEY
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 **8th day of March, 2021**.



**STEPHANIE SHACKELFORD, DIRECTOR
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE**

NOTICE OF FILING PROCEDURES

Due to the COVID-19 pandemic, APD has changed its filing procedures. Until further notice, filings should be made by **email** to APD.Filings@tn.gov or by **facsimile** to 615-741-4472. Paper filings should only be made by mail if a litigant has no access to either email or facsimile. If you are filing by email, documents should be saved in PDF format prior to filing. Each document to be filed must be a separate PDF. Only one filing method should be used. Please name PDFs for filing in the following format:

“**APD CASE NUMBER YOUR NAME ABBREVIATED NAME OF DOCUMENT BEING FILED AGENCY NAME**”

NOTICE OF APPEAL PROCEDURES

REVIEW OF INITIAL ORDER

The Administrative Judge's decision in your case **BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE (COMMISSIONER)**, called an Initial Order, was entered on **March 8, 2021**. The Initial Order is not a Final Order but shall become a Final Order unless:

1. **A Party Files a Petition for Reconsideration of the Initial Order:** You may ask the Administrative Judge to reconsider the decision by filing a Petition for Reconsideration. Mail to the Administrative Procedures Division (APD) a document that includes your name and the above APD case number, and states the specific reasons why you think the decision is incorrect. The APD must receive your written Petition no later than 15 days after entry of the Initial Order, which is no later than **March 23, 2021**. A new 15 day period for the filing of an appeal to the **COMMISSIONER** (as set forth in paragraph (2), below) 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.

The Administrative Judge has 20 days from receipt of your Petition to grant, deny, or take no action on your Petition for Reconsideration. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing (as discussed in paragraph (2), below) will be adjusted. If no action is taken within 20 days, the Petition is deemed denied. As discussed below, if the Petition is denied, you may file an appeal. Such an Appeal must be received by the APD no later than 15 days after the date of denial of the Petition. *See* TENN. CODE ANN. §§ 4-5-317 and 4-5-322.

2. **A Party Files an Appeal of the Initial Order:** You may appeal the decision to the **COMMISSIONER**. Mail to the APD a document that includes your name and the above APD case number, and states that you want to appeal the decision to the **COMMISSIONER**, along with the specific reasons for your appeal. The APD must receive your written Appeal no later than 15 days after the entry of the Initial Order, which is no later than **March 23, 2021**. The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317.
3. **The COMMISSIONER decides to Review the Initial Order:** In addition, the **COMMISSIONER** may give written notice of the intent to review the Initial Order, within 15 days after the entry of the Initial Order.

If either of the actions set forth in paragraphs (2) or (3) above occurs prior to the Initial Order becoming a Final Order, there is no Final Order until the **COMMISSIONER** renders a Final Order.

If none of the actions in paragraphs (1), (2), or (3) above are taken, then the Initial Order will become a Final Order. **In that event, YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER.**

STAY

In addition, you may file a Petition asking the Administrative Judge for a stay that will delay the effectiveness of the Initial Order. A Petition for a stay must be received by the APD within 7 days of the date of entry of the Initial Order, which is no later than **March 15, 2021**. *See* TENN. CODE ANN. § 4-5-316.

NOTICE OF APPEAL PROCEDURES

REVIEW OF A FINAL ORDER

1. **A Party may file a Petition for Reconsideration of the Final Order:** When an Initial Order becomes a Final Order, a party may file a Petition asking for reconsideration of the Final Order. Mail to the Administrative Procedures Division (APD) a document that includes your name and the above APD case number, and states the specific reasons why you think the Final Order is incorrect. If the Initial Order became a Final Order without an Appeal being filed, and without the **COMMISSIONER** deciding to modify or overturn the Initial Order, the Administrative Judge will consider the Petition. If the **COMMISSIONER** rendered a Final Order, the **COMMISSIONER** will consider the Petition. The APD must **receive** your written Petition for Reconsideration no later than 15 days after: (a) the issuance of a Final Order by the **COMMISSIONER**; or (b) the date the Initial Order becomes a Final Order. If the Petition is granted, you will be notified about further proceedings, and the timeline for appealing the Final Order will be adjusted. If no action is taken within 20 days of filing of the Petition, it is deemed denied. *See* TENN. CODE ANN. § 4-5-317.
2. **A Party Files an Appeal of the Final Order:** A person who is aggrieved by a Final Order in a contested case may seek judicial review of the Final Order by filing a Petition for Review “in the Chancery Court nearest to the place of residence of the person contesting the agency action or alternatively, at the person’s discretion, in the chancery court nearest to the place where the cause of action arose, or in the Chancery Court of Davidson County,” within 60 days of (a) the date of entry of a Final Order; or (b) the date the Initial Order becomes a Final Order. *See* TENN. CODE ANN. § 4-5-322. The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317. A reviewing court also may order a stay of the Final Order upon appropriate terms. *See* TENN. CODE ANN. §§ 4-5-322 and 4-5-317.
3. **A Party may request a stay of the Final Order:** A party may file a Petition asking for a stay that will delay the effectiveness of the Final Order. If the Initial Order became a Final Order without an Appeal being filed, and without the **COMMISSIONER** deciding to modify or overturn the Initial Order, the Administrative Judge will consider the Petition. If the **COMMISSIONER** rendered a Final Order, the **COMMISSIONER** will consider the Petition. A Petition for a stay of a Final Order must be **received** by the APD within 7 days after the Initial Order becomes a Final Order. *See* TENN. CODE ANN. § 4-5-316.

FILING

To file documents with the Administrative Procedures Division, use this address:

Secretary of State
Administrative Procedures Division
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Fax: (615) 741-4472