BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE

TENNESSEE INSURANCE DIVISION, **Petitioner,** **vs.** **TYSON HEATH FINE** **Respondent,**	**TID No. 13-067** **Docket No. 12.01-123563J**

ORDER

This matter came to be heard on January 23, 2014, before Rob Wilson, Administrative Law Judge, assigned by the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Commerce and Insurance ("Commissioner"). Attorney Lauren V. Dantche, Assistant General Counsel for Petitioner, represented the Insurance Division of the Tennessee Department of Commerce and Insurance ("Division"). The Respondent, Tyson Heath Fine was not present at the hearing, nor did an attorney appear on his behalf.

ORDER OF DEFAULT

This matter was heard upon the Division's Motion for Default pursuant to Tennessee Code Annotated ("Tenn. Code Ann.") § 4-5-309 due to Mr. Fine's failure to appear or to be represented at the hearing on January 23, 2014, after receiving proper notice thereof. The record indicates that Mr. Fine was properly served pursuant to Tenn. Code Ann. § 4-5-307 and the Official Compilation Rules & Regulations of the State of Tennessee ("Tenn. Comp. R. & Regs.") 1360-04-01-.06. After consideration of the record, it was determined that the Division's motion was proper. Mr. Fine was held in **DEFAULT**, and the Division was permitted to proceed with an uncontested case.

INITIAL ORDER

The subject of this hearing was the proposed revocation of Mr. Fine's nonresident insurance producer license in the State of Tennessee, and a request for monetary civil penalties. After consideration of the argument of counsel and the record in this matter, it is determined that Mr. Fine's insurance producer license is **REVOKED** and he is **ORDERED** to pay a Two Thousand Dollar ($2,000) civil penalty. This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. Mr. Fine's address of record filed with the Division is 19357 N. Madison Road, Maricopa, Arizona 85239. At all times relevant to the events herein, Mr. Fine has been licensed by the Division to sell insurance in the State of Tennessee as a nonresident insurance producer, license number 0936519, obtained in 2005.

2. On or about May 22, 2012, Mr. Fine submitted a guilty plea to the Criminal Court of Bradley County, Tennessee. During the proceeding, Mr. Fine admitted to theft of Twenty-One Thousand Dollars ($21,000) under the false premise that the money issued would be invested.

3. A criminal judgment was rendered and Mr. Fine was found guilty of a Class D felony for Theft of Property greater than One Thousand Dollars ($1,000) and less than Ten Thousand Dollars ($10,000). He was sentenced to two (2) years in a Tennessee Department of Corrections ("TDOC") facility with an alternative sentencing of two (2) years of probation, in addition to court costs. Restitution was not ordered; the money had already been repaid to the victim.

4. On or about January 16, 2013, the State of Arizona Department of Insurance issued an Order revoking Mr. Fine's resident insurance producer license on the grounds that Fine

had misappropriated Twenty-One Thousand Dollars ($21,000) of a client's investment funds and used it for personal expenses, leading to a Class D felony conviction for theft in Bradley County, Tennessee. The revocation of Mr. Fine's Arizona resident insurance producer license disqualified him from meeting the licensing requirements under Tennessee insurance law to hold a nonresident insurance producer license. As a result, Mr. Fine's nonresident license was placed on cancelled status with the Division, on or around January 8, 2013.

CONCLUSIONS OF LAW

1. Pursuant to Tenn. Comp. R. & Regs. 1360-04-01.15, in an uncontested proceeding, the Division has the burden of establishing its allegations by a preponderance of the evidence presented.

2. Tenn. Code Ann. § 56-6-112(a) authorizes the Commissioner to place on probation, suspend, revoke, or refuse to issue or renew a license where the license holder has:

> . . .
>
> (6) [B]een convicted of a felony;
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> . . .
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> (9) [H]ad an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory.
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> . . .

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

(1) Whether the person could reasonably have interpreted such person's actions to be in compliance with the obligations required by 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.

4. The Division has met its burden of proof by a preponderance of the evidence that Mr. Fine was convicted of a felony in violation of Tenn. Code Ann. § 56-6-112(a)(6).

5. The Division has met its burden of proof by a preponderance of the evidence that Mr. Fine had his insurance producer license revoked in another state in violation of Tenn. Code Ann. § 56-6-112(a)(9).

It is therefore **ORDERED** that the nonresident insurance producer license number 0936519, issued to Tyson Heath Fine, be **REVOKED** and that he be ordered to pay One Thousand Dollars ($1,000) in civil penalties for each violation of Tenn. Code Ann. §§ 56-6-112(a)(6) and 56-6-112(a)(9) for a total amount of Two Thousand Dollars ($2,000).

This Initial Order entered and effective this 4th day of ~~February~~ March 2014.

Rob Wilson
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 4th day of ~~February~~ March 2014.

J. Richard Collier

J. Richard Collier, Director
Administrative Procedures Division