

TN-ID # 0718216

NPN-5940024

**BEFORE THE COMMISSIONER OF THE TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE**

IN THE MATTER OF:

JOHN THOMAS VENABLE
Respondent

DOCKET NO: 12.01-115929J

INITIAL ORDER

This matter came to be heard on April 17, 2012 before Leonard Pogue, Administrative Judge, sitting for the Commissioner of the Tennessee Department of Commerce and Insurance in Nashville, Tennessee. Bruce Poag, Assistant General Counsel, Department of Commerce and Insurance, represented the State. Respondent, John Thomas Venable, was present at the hearing but not represented by legal counsel. The subject of this hearing was the State's Petition to revoke Respondent's Insurance Producer License and/or to levy civil penalties against the Respondents for violations of T.C.A. §56-6-112.

After consideration of the record in this matter, it is determined that Respondent's license should be revoked (Respondent's license expires on January 31, 2014) and Respondent should pay to the Commissioner of the Tennessee Department of Commerce and Insurance a civil penalty in the amount of thousand dollars (\$10,233.90). This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Tennessee Insurance Law, as amended, places the responsibility for the administration of the Law on the Commissioner of Commerce and Insurance (the "Commissioner"). TENN. CODE ANN. §§ 56-1-202 and 56-6-101 *et seq.*

2. The Insurance Division is the lawful agent through which the Commissioner discharges this responsibility.

3. Respondent is a citizen and resident of Tennessee and resides at 1632 Natural Bridge Road, Waynesboro, Tennessee 37013. At all times relevant to the events herein, Respondent has been licensed by the Insurance Division to sell insurance in this state as an insurance producer, having obtained said license, numbered 718216, in 1991.

4. On approximately September 15, 2010, the Department received correspondence from American Family Life Assurance Company of Columbus ("Aflac") indicating that Respondent's contract with Aflac was canceled for cause.

5. Richard Riddle, an insurance fraud investigator with the Department, began an investigation based on the September 15, 2010 correspondence from Aflac. Mr. Riddle contacted Wanda Perper, an investigator for Aflac.

6. On approximately August 11, 2010, Respondent admitted to Ms. Perper that he submitted fraudulent insurance applications in various names in an effort to receive advance commission payments.

7. Between April and December 2009, Respondent submitted thirty (30) fraudulent insurance applications in the names of fourteen (14) individuals, including six (6) applications that were submitted in variations of Respondent's name, to Aflac. In addition to submitting fraudulent insurance applications, Respondent also submitted thirty (30) fraudulent Payment

Authorization Agreements, listing four (4) separate bank accounts to be automatically drafted for premium payments, to Aflac.

8. Respondent's purpose for submitting thirty (30) insurance applications and thirty (30) Payment Authorization Agreements to Aflac was to generate advance commission payments, not legitimate insurance purposes. Consequently, Respondent received approximately fourteen thousand four hundred fifteen dollars and sixty-nine cents (\$14,415.69) in total commission payments from Aflac; however, approximately four thousand one hundred eighty-one dollars and seventy-nine cents (\$4,181.79) was charged back against Respondent's other commission payments. Therefore, Respondent netted approximately ten thousand two hundred thirty-three dollars and ninety cents (\$10,233.90) in commission payments from Aflac based on the thirty (30) fraudulently submitted insurance applications.

9. Respondent submitted to Aflac thirty (30) insurance applications and thirty (30) Payment Authorization Agreements in the names of the following individuals:

- a. William Burney (Respondent's acquaintance) on approximately November 25, 2009;
- b. Clarence Farr (Respondent's acquaintance) on approximately December 17, 2009;
- c. Jane Greene (Respondent's biological mother) on approximately April 10, 2009;
- d. Kevin Greene (Respondent's birth name before adoption) on approximately October 22, 2009;
- e. Teresa Hickerson (Respondent's acquaintance) on approximately December 8, 2009;
- f. Alan Long (Respondent's acquaintance) on approximately November 24, 2009;
- g. Rae Lovet (Respondent's acquaintance) on approximately November 5, 2009;

- h. Ja Ray (Respondent's acquaintance) on approximately September 16, 2009;
- i. Leigh Smith (Respondent's acquaintance) on approximately October 30, 2009;
- j. Tinker Tenison (Respondent's acquaintance) on approximately July 1, 2009;
- k. John Thomas (Respondent's first and middle name) on approximately December 16, 2009;
- l. Jennifer Venable (Respondent's sister) on approximately July 31, 2009;
- m. Thomas Venable (Respondent's middle and last name) on approximately October 15, 2009; and
- n. Paula Wallstedt (Respondent's adoptive mother) on approximately October 28, 2009.

10. On August 30, 2010, Respondent's appointment with Aflac was terminated for cause based on the submission of fraudulent insurance applications.

11. Respondent admitted to Mr. Riddle that the alleged policy holders were friends, neighbors, family members and variations of his own name. Respondent did not deny to Mr. Riddle that he had submitted the applications and explained that he did so because of financial difficulties.

12. At the hearing of this matter, Respondent admitted he submitted the applications and explained that the alleged policy holders' names were those of family, friends and his own name. He submitted the applications to receive advance commissions and was motivated to do so because he was experiencing financial problems. Respondent expressed remorse for his actions but has not reimbursed Aflac for the \$10,233.90 he improperly received. Respondent claimed that Aflac employees provided him with the training to effectuate his scheme but admitted he was responsible for his own wrongdoing.

CONCLUSIONS OF LAW

1. TENN. CODE ANN. § 56-6-112(a) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license and/or may levy a civil penalty for any one or more of the following violations:

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

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

2. TENN. CODE ANN. § 56-6-112(e) (2007) provides that:

With respect to any person licensed or required to be licensed under this part, and in addition to or in lieu of any applicable denial, suspension or revocation of a license, the commissioner may assess a civil penalty against such person in an amount no less than one hundred (\$100) nor more than one thousand dollars (\$1,000) for each separate violation of a statute, rule or order pertaining to the sale, solicitation or negotiation of insurance in this state. Each day of continued violation constitutes a separate violation.

3. The State has shown by a preponderance of the evidence that Respondent violated TENN. CODE ANN. § 56-6-112(a)(4) by improperly withholding, misappropriating and/or converting moneys received from Aflac as advance commission payments based on the thirty (30) fraudulent insurance applications submitted by Respondent in the names of fourteen (14) individuals to Aflac.

4. The State has shown by a preponderance of the evidence that Respondent violated TENN. CODE ANN. § 56-6-112(a)(4) by improperly withholding, misappropriating and/or converting moneys received from Aflac as advance commission payments based on the thirty (30) fraudulent Payment Authorization Agreements submitted by Respondent in the names of fourteen (14) individuals to Aflac.

5. The State has shown by a preponderance of the evidence that Respondent violated TENN. CODE ANN. § 56-6-112(a)(8) by submitting thirty (30) fraudulent insurance applications in the names of fourteen (14) individuals to Aflac.

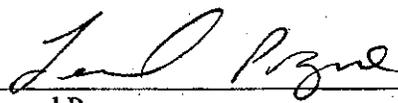
6. The State has shown by a preponderance of the evidence that Respondent violated TENN. CODE ANN. § 56-6-112(a)(8) by submitting thirty (30) fraudulent Payment Authorization Agreements in the names of fourteen (14) individuals to Aflac.

7. Pursuant to TENN. CODE ANN. § 56-6-112(a), it is determined that Respondent's insurance producer license be revoked for violating § 56-6-112(a)(4) and (8).

8. Pursuant to TENN. CODE ANN. § 56-6-112(e)(2007), Respondent is assessed a civil penalty of \$10,233.90 for violating § 56-2-112(a)(4) and (8).

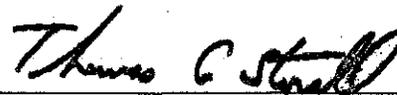
It is therefore **ORDERED** that Respondent's insurance producer license be **REVOKED** and that a **CIVIL PENALTY** be assessed against Respondent in an amount of Ten Thousand Two Hundred Thirty Three Dollars and Ninety Cents (\$10,233.90). The costs of this action are assessed against Respondent.

This Initial Order entered this 18TH day of April, 2012.



Leonard Pogue
Administrative Judge

Filed in the Administrative Procedures Division, this 18th day of April, 2012.

A handwritten signature in cursive script, reading "Thomas C. Stovall". The signature is written in black ink and is positioned above a horizontal line.

Thomas Stovall, Director
Administrative Procedures Division
Office of the Secretary of State