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BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE FOR THE STATE OF TENNESSEE

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SECRETARY OF STATE

TENNESSEE INSURANCE DIVISION,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**APD No.: 12.01-133366J**
	)	**TID No.: 15-105**
JOHN OSCAR WILSON, III and JAMES ALLEN FORD, JR.	)	
Respondents.	)	

ORDER OF SUMMARY SUSPENSION

This Order issues as a result of a Notice of Hearing and Charges ("Notice") filed by the Insurance Division of the Tennessee Department of Commerce and Insurance ("Division") and is based upon the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Respondent Wilson is a licensee of the Division who is responsible for being compliant with the insurance laws, and regulations of the State of Tennessee.

2. Respondent Wilson holds a valid Tennessee insurance producer license, number 0654322, which became active on or about October 2, 1984.

3. Respondent Wilson's insurance producer license is currently in ACTIVE status with an expiration date of September 30, 2015.

4. Upon information and belief, and records on file with the Division, Respondent Wilson is a Tennessee resident residing at 6510 Whittemore Lane, Antioch, Tennessee 37013-4802, which is also his address of record.

5. At no time has Respondent Wilson held licensure as an investment advisor, financial planner, or any other licensure enabling him to sell securities.

6. From in or about 2005 to the present, Respondent Wilson advised clients on investments.

7. At all relevant times, Respondents Wilson and Ford (collectively "Respondents") have been employed at Preserve Financial Group, Inc. ("PFG"), an insurance agency owned by Respondent Wilson.

8. PFG is located at 1616 Westgate Circle, Brentwood, Tennessee 37027-8571.

9. From in or about 2009, through the present date, Respondents have utilized a scheme to defraud clients out of their retirement money.

10. Specifically, Respondents (1) used a radio program, The Retirement Solutions Show, to advertise a book entitled, "The Retirement Miracle," written by Patrick Kelly, to attract the business of retirees; (2) once working with a retiree, Respondents advise their retiree clients to remove their money from their existing tax-deferrable investments, and instead invest their money in multiple insurance products; (3) Respondents' advice created adverse tax implications for their clients on the removed money; and (4) after reinvesting the removed tax-deferred funds, Respondents advised clients to remove money from the Respondent-initiated investments, and reinvest those same funds again into more investments, triggering substantial surrender charges for their clients.

11. Respondents, in order to obtain increased commissions, purposefully and knowingly churned their client investments in advising clients to purchase multiple insurance products. Respondents purposefully offered poor advice and repeatedly failed to disclose the consequences of their repeated reinvestment scheme to their clients.

TRACY BLEVINS

12. In or about 2005, Respondent Wilson met Tracy Blevins ("Blevins"). Blevins has been cutting and styling hair for Respondent Wilson and his family since their initial meeting.

13. In or about 2008, Respondent Wilson discussed with Blevins how he could help her invest her money, instructing that he could get her a higher return on her investments than her 401k.

14. In or about March 2008, Respondent Wilson advised Blevins to remove approximately fifteen thousand dollars ($15,000) from her 401k account, and reinvest in a ten (10) year life annuity with Allianz Life Insurance Company ("Allianz").

15. In or about March 2008, Blevins, relying on Respondent Wilson's advice, removed all the funds, approximately fifteen thousand dollars ($15,000), from her existing 401k account. Blevins purchased the Allianz ten (10) year life annuity, suggested by Respondent Wilson, with her former 401k funds.

16. Respondent Wilson failed to tell Blevins the consequences of withdrawing money from her 401k before the age of fifty-nine (59); such consequences being that she would incur surrender penalties, a ten percent (10%) penalty for not being at least fifty-nine (59) years of age, and tax penalties on this withdrawal.

17. Approximately two (2) years later, after Blevins reinvested her approximate fifteen thousand dollars ($15,000) at the direction of Respondent Wilson, in or about 2010, Respondent Wilson advised Blevins to withdraw the approximate fifteen thousand dollars ($15,000) from the Allianz annuity and wire this money to his business, PFG.

18. Respondent Wilson failed to advise Blevins that such a surrender of her Allianz annuity policy would result in a ten percent (10%) withdrawal penalty and subsequent tax liabilities.

19. On or about September 9, 2010, Blevins wrote a check in the amount of approximately fifteen thousand dollars ($15,000) to PFG for the purpose of reinvesting her surrendered annuity funds.

20. On or about September 20, 2010, Respondent Wilson deposited Blevins' check into his personal Fifth Third bank account.

21. Using some of the funds he received from Blevins' annuity surrender, on or about October 26, 2010, Respondent Wilson applied for an Allianz life insurance policy in Blevins' name, without her permission or knowledge.

22. In so applying, on or about October 26, 2010, Respondent Wilson forged Blevins' signature twice on the Allianz life insurance application.

23. In total, Respondent Wilson paid approximately three thousand, two hundred seventy-eight dollars and forty-five cents ($3,278.45) to fund this unauthorized life insurance policy in order to keep the policy active long enough to obtain full commissions on the sale of the policy.

24. Respondent Wilson retained the remaining approximate eleven thousand, seven hundred twenty-one dollars and fifty-five cents ($11,721.55) received from Blevins for his own personal use and enjoyment.

25. In or about March and April 2013, Blevins consulted H&R Block to file her taxes for years 2010, 2011, and 2012. At this time, she learned that she owed taxes and associated late penalties on the withdrawn fifteen thousand dollars ($15,000) she invested with Respondent Wilson.

26. On or about October 30, 2014, Blevins filed a police report with the Murfreesboro Police Department based on Respondent Wilson's misappropriation of funds.

27. To date, Respondent Wilson has not paid any of the approximate eleven thousand, seven hundred twenty-one dollars and fifty-five cents ($11,721.55) he retained back to Blevins.

HARLAN AND BARBARA PETTY

28. In or about the end of 2009 or the beginning of 2010, Harlan and Barbara Petty ("the Pettys") met Respondents after listening to The Retirement Miracle radio show discussing tax free retirement.

29. Mr. Petty was born in 1943, and is a multiple time cancer survivor. Mrs. Petty was born in 1946. The Pettys were approximately age sixty-seven (67) and sixty-four (64), respectively, and in poor health, when they met Respondents.

30. In or about 2010, Respondents met with the Pettys to deliver the book "Tax-Free Retirement" written by Patrick Kelly and consult regarding investment of the Pettys' money.

31. In or about December 2010, Respondent Wilson advised the Pettys to invest in a reverse mortgage for the purpose of getting money from the equity they held in their home. Respondent Wilson introduced the Pettys to Phillip F. Fenton, III ("Fenton"), who helped the Pettys complete the reverse mortgage application process.

32. Prior to investing in the reverse mortgage, the Pettys had two (2) mortgages; the first with SunTrust Mortgages for approximately ninety-two thousand, five hundred ninety-eight dollars and thirty-nine cents ($92,598.39) and the second with SunTrust Bank for approximately twelve thousand, nine hundred fifty-nine dollars and ten cents ($12,959.10).

33. On or about December 23, 2010, Fenton helped the Pettys complete their investment in Respondent Wilson's advised reverse mortgage. As a result of this investment, the Pettys incurred settlement charges in the amount of approximately eight thousand, two hundred fourteen dollars and eighty cents ($8,214.80).

34. The Pettys received no money for the reverse mortgage, as the funds gleaned from this reverse mortgage paid off the Pettys' existing mortgages, and the remainder was retained by

Respondent Wilson and Fenton as commission payments. Upon information and belief, as a result of this investment, the Pettys are unsure whether they can remain in their home until they pass away.

35. On or about December 29, 2010, upon the advice of Respondents, 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 fifty-one thousand, four hundred ninety-nine dollars and seventy-eight cents ($51,499.78).

36. On or about December 29, 2010, Respondents earned approximately five thousand, six hundred sixty-four dollars and ninety-seven cents ($5,664.97) in commissions on the sale of the December 29, 2010, National Western annuity policy to the Pettys.

37. On or about January 20, 2011, Respondents advised the Pettys to surrender their existing Hartford account, valued at approximately nine thousand dollars ($9,000).

38. In so advising, Respondents failed to inform the Pettys that this surrender was subject to taxation in the amount of approximately seven hundred forty-six dollars and nine cents ($746.09).

39. On or about February 23, 2011, using approximately forty-eight thousand, five hundred dollars and twenty-two cents ($48,500.22) of the Pettys' money, Respondent Wilson opened another annuity policy for the Pettys with National Western, without the Pettys' knowledge or permission. This unauthorized annuity policy has an effective date of on or about March 4, 2011.

40. In the course of opening the unauthorized February 23, 2011, National Western annuity policy, Respondent Wilson forged Mr. Petty's signature six (6) times on the application.

41. On or about February 23, 2011, Respondents earned approximately five thousand, three hundred thirty-five dollars and three cents ($5,335.03) in commissions on the sale of the unauthorized February 23, 2011, National Western annuity policy to the Pettys.

42. In or about early 2011, the Pettys went to H&R Block for their tax preparation, and discovered they owed taxes in the amount of approximately thirty-six thousand, seven hundred fifty-four dollars ($36,754) due to Respondents' investment surrender advice.

43. After learning about the Pettys' 2011 tax obligation, Respondent Wilson instructed they were not to be concerned about these taxes, that the government would not discover the taxes owed anyway.

44. On or about June 30, 2011, Respondents advised the Pettys to surrender their existing Allianz annuity, valued at approximately eighty-eight thousand, two hundred seven dollars and ninety-one cents ($88,207.91).

45. On or about June 30, 2011, the Pettys received approximately seventy-four thousand, nine hundred seventy-three dollars and seventy-two cents ($74,973.72) from the surrender of their existing Allianz annuity policy. Allianz wired this money to the Pettys' personal bank account.

46. Respondents did not advise the Pettys 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 an approximate thirteen thousand, two hundred thirty-four dollar and nineteen cent ($13,234.19) surrender penalty.

47. On or about July 8, 2011, upon the advice of Respondents, the Pettys purchased an annuity from Phoenix Life Insurance Company ("Phoenix") in the amount of approximately sixty-five thousand dollars ($65,000).

48. On or about July 8, 2011, Respondents earned approximately six thousand, eight hundred twenty-five dollars ($6,825) in commissions on the sale of the Phoenix annuity policy to the Pettys.

49. On or about May 17, 2012, Respondent Wilson 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 approximately forty-six thousand, one hundred seven dollars and forty-three cents ($46,107.43) at the time of surrender.

50. On or about May 17, 2012, the Pettys received approximately forty thousand, eighty-three dollars and ninety-three cents ($40,083.93) for the surrender of their December 29, 2010, National Western annuity policy.

51. Respondents 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 an approximate six thousand, twenty-three dollar and fifty cent ($6,023.50) surrender penalty.

52. On or about May 17, 2012, Respondents advised the Pettys to surrender their National Western annuity policy, which Respondents purchased without their knowledge or consent on or about February 23, 2011, after being in effect for only approximately fourteen (14) months, valued at approximately forty-four thousand, one hundred seventy-one dollars and ninety-five cents ($44,171.95) at the time of surrender.

53. On or about May 17, 2012, the Pettys received approximately thirty-seven thousand, seven hundred twenty-seven dollars and sixty-four cents ($37,727.64) from the surrender of their February 23, 2011, National Western annuity policy.

54. Respondents did not advise the Pettys that such a surrender of their February 23, 2011, National Western annuity policy would result in a surrender penalty. Nevertheless, the Pettys incurred an approximate six thousand, four hundred forty-four dollar and thirty-one cent ($6,444.31) surrender penalty.

55. On or about May 25, 2012, upon the advice of Respondents, the Pettys purchased an annuity from EquiTrust Life Insurance Company ("EquiTrust") in the amount of approximately seventy thousand dollars ($70,000).

56. On or about May 25, 2012, Respondents earned approximately six thousand, three hundred dollars ($6,300) in commissions on the sale of the EquiTrust annuity policy to the Pettys.

57. On or about May 30, 2013, the Internal Revenue Service ("IRS") contacted the Pettys, indicating the Pettys owed approximately thirty-six thousand, seven hundred fifty-four dollars ($36,754) in unpaid tax penalties due to Respondents' investment surrender advice. Upon information and belief, the Pettys never took any action on the taxes owed pursuant to Respondent Wilson's advice that the government would not realize the Pettys owed any additional taxes, in or about early 2011.

58. On or about July 15, 2013, Respondent Wilson sent a letter to the IRS on behalf of the Pettys, which contained inaccurate and misleading information, purporting to represent the Pettys in their tax payment matter with the IRS. Respondent Wilson is neither a Certified Public Accountant ("CPA") nor a tax attorney, and, as such, has no authority to offer tax advice or legal aid or assistance.

59. On or about August 7, 2013, Respondent Wilson advised the Pettys to surrender their Phoenix annuity policy, valued at approximately sixty-six thousand, eleven dollars and sixty-two cents ($66,011.62) at the time of surrender.

60. On or about August 7, 2013, the Pettys received approximately fifty-nine thousand, fifty dollars and eighty-five cents ($59,050.85) from the surrender of their Phoenix annuity policy.

61. Respondent Wilson did not advise the Pettys that such a surrender of their Phoenix annuity policy would result in a surrender penalty. Nevertheless, the Pettys incurred an approximate eight thousand, nine hundred thirty-three dollar and one cent ($8,933.01) surrender penalty.

62. On or about August 20, 2013, upon the advice of Respondent Wilson, the Pettys purchased an annuity from Security Benefit Life Insurance Company ("Security Benefit") in the amount of approximately fifty thousand dollars ($50,000). (Stoquert Aff. ¶ 61.)

63. On or about August 20, 2013, Respondent Wilson earned approximately three thousand, five hundred dollars ($3,500) in commissions on the sale of the Security Benefit annuity policy to the Pettys.

64. On or about April 9, 2014, Respondent Wilson advised the Pettys to surrender approximately forty thousand dollars ($40,000) from their EquiTrust annuity policy. (Stoquert Aff. ¶ 63.)

65. Respondent Wilson did not advise the Pettys that such a surrender of their EquiTrust annuity policy would result in a surrender penalty. Nevertheless, the Pettys incurred an approximate four thousand dollar ($4,000) surrender penalty.

66. In total, from in or about 2010, through in or about 2014, Respondents gleaned approximately twenty-seven thousand, six hundred twenty-five dollars ($27,625) in commissions from selling unsuitable annuity products to the Pettys.

67. In total, from in or about 2010, through in or about 2014, the Pettys lost approximately thirty-nine thousand, three hundred eighty-one dollars and ten cents ($39,381.10) in surrender penalties based on Respondents' churning of polices owned by the Pettys during this time frame.

AMY GUNTER

68. Amy Gunter ("Gunter") first came into contact with Respondents in or about April 2011, when she called a radio show after hearing their radio advertisement on The Retirement Solutions Show about "The Retirement Miracle," written by Patrick Kelly.

69. Gunter was approximately sixty-three (63) years old when she met Respondents.

70. During April 2011, Respondents visited Gunter, delivered the book, and explained how various investments would work for her by writing examples on paper.

71. The money Gunter decided to invest with Respondents was to be invested in such a manner that it could be apportioned equally between Gunter's three (3) grandchildren.

72. Before investing her money with Respondent Wilson, Gunter owned an IRA worth approximately three hundred seventy thousand dollars ($370,000).

73. During April 2011, Respondents inappropriately convinced Gunter to remove approximately three hundred sixty-two thousand, four hundred fifty-three dollars and forty-six cents ($362,453.46) from her existing tax-deferrable IRA with The Hartford ("Hartford"), and reinvest these funds into a life insurance policy with North American Life Insurance ("North American") and an annuity with National Western.

74. Respondents did not advise Gunter that such a surrender from her Hartford IRA would result in a surrender penalty. Nevertheless, Gunter incurred an approximate six thousand, two hundred twenty-five dollar and forty-six cent ($6,225.46) surrender penalty.

75. During April 2011, Gunter retained approximately twenty thousand dollars ($20,000) of her suggested IRA surrender for herself, and entrusted the remaining three hundred forty-two thousand, four hundred fifty-three dollars and forty-six cents ($342,453.46) to Respondents for investment purposes.

76. On or about April 15, 2011, Respondent Wilson invested approximately two hundred forty thousand dollars ($240,000) of Gunter's surrendered IRA funds into Gunter's National Western annuity policy.

77. On or about April 28, 2011, Respondents invested approximately one hundred thousand dollars ($100,000) of Gunter's initial IRA funds into Gunter's North American life insurance policy.

78. Upon information and belief, the taxes associated with the North American life insurance policy were a substantial financial burden to Gunter.

79. Respondents blatantly disregarded Gunter's request to have her money invested for the benefit of her three (3) grandchildren equally, one hundred thousand dollars ($100,000) per grandchild, to inherit upon her passing, and instead opened three (3) Allianz term life insurance policies with annual premiums of one thousand, two hundred dollars ($1,200).

80. On or about December 7, 2011, Respondents opened three (3) term life insurance policies, valued at approximately one thousand, two hundred dollars ($1,200) per policy, with Allianz on behalf of Gunter, assigning as beneficiary one grandchild per policy, respectively.

81. On or about May 23, 2012, Respondent Wilson forged Gunter's signature four (4) separate times on Phoenix documents related to replacement of life insurance policies.

82. On or about May 24, 2012, approximately thirteen (13) months after purchase, Respondents convinced Gunter to surrender approximately twenty-three thousand, nine hundred sixty-eight dollars and sixty-three cents ($23,968.63) from her National Western annuity policy for the purpose of paying her North American life insurance policy. This surrendered money was wired to Gunter's bank account at First Tennessee Bank.

83. During 2012, Gunter received cancellation notices for the three (3) Allianz life insurance policies which named her grandchildren as beneficiaries.

84. Prior to such cancellation, Gunter did not know the three (3) Allianz life insurance policies naming her grandchildren as beneficiaries were term life insurance policies valued at approximately one thousand, two hundred dollars ($1,200) per policy; the cancellation notices alerted Gunter as to the nature of these policies.

85. The social security numbers on all three (3) Allianz life insurance policies included the same social security number, which did not belong to Gunter or any of her grandchildren named as beneficiaries.

86. In or about June 2012, Respondents convinced Gunter to surrender approximately one hundred seventy-nine thousand, seven hundred thirty-six dollars and eighty-eight cents ($179,736.88) from her National Western annuity.

87. Respondents did not advise Gunter that such a surrender from her National Western annuity would result in a surrender penalty. Nevertheless, Gunter incurred an approximate thirty-one thousand, one hundred dollar and seventy-six cent ($31,100.76) surrender penalty.

88. On or about June 7, 2012, upon the advice of Respondents, Gunter invested approximately one hundred thousand dollars ($100,000) from her National Western annuity surrender in a Personal Income Fixed Annuity with Phoenix Wealth Management ("Phoenix annuity").

89. On or about June 7, 2012, upon the direction of Respondents, Gunter wrote a check to PFG in the amount of approximately eighty thousand dollars ($80,000) from her National Western Annuity surrendered funds. Respondents deposited this check into PFG's bank account.

90. On or about June 18, 2012, upon the direction of Respondents, Gunter sent approximately twenty thousand dollars ($20,000) to North American to pay the premium for her North American life insurance policy.

91. In or about May 2013, Gunter's husband needed approximately twenty-five thousand dollars ($25,000) of their money to build a cabin. Accordingly, Gunter requested this money be removed from one of her investments through her agent, Respondent Wilson.

92. In response to Gunter's request, Respondent Wilson instructed Gunter that the only way he would be able to get the approximate twenty-five thousand dollars she sought from her North American life insurance policy was to take out approximately thirty-eight thousand dollars ($38,000) and redeposit the excess approximate thirteen thousand dollars ($13,000) back into the same North American life insurance policy.

93. Relying on Respondent Wilson's instruction to remove an amount in excess of that which Gunter desired, on or about May 14, 2013, Gunter received a wire transfer in the amount of approximately thirty-eight thousand, one hundred fifty dollars ($38,150) from the North American life insurance policy.

94. On or about May 24, 2013, Gunter wrote a check in the amount of approximately twenty-five thousand dollars ($25,000) to her husband.

95. On or about May 28, 2013, Gunter wrote a check in the amount of approximately thirteen thousand dollars ($13,000) to PFG for the purpose of having Respondent Wilson deposit these funds back in her North American life insurance policy.

96. Respondent Wilson did not deposit Gunter's approximate thirteen thousand dollar ($13,000) check into her North American life insurance policy; rather, on or about May 29, 2013, he deposited the check into PFG's bank account.

97. On or about June 11, 2013, Respondent Wilson convinced Gunter to surrender her approximate one hundred thousand dollar ($100,000) Phoenix annuity in its entirety.

98. Respondent Wilson did not advise Gunter that such a surrender of her entire Phoenix annuity would result in a surrender penalty. Nevertheless, Gunter incurred an approximate thirteen thousand, two hundred seventy-six dollar and sixty-four cent ($13,276.64) surrender penalty.

99. On or about June 17, 2013, Gunter received a wire transfer from the surrender of her Phoenix annuity totaling approximately eighty-seven thousand, seven hundred twenty-three dollars and thirty-six cents ($87,723.36).

100. On or about July 3, 2013, at the direction of Respondent Wilson, Gunter wired approximately eighty-eight thousand dollars ($88,000) to PFG. Respondent Wilson deposited this amount into PFG's bank account.

101. In total, Respondents misappropriated an approximate total of one hundred eighty-one thousand dollars ($181,000) from Gunter.

102. In total, in advising Gunter to surrender accounts which caused Gunter to unknowingly incur surrender penalties, Respondents cost Gunter approximately fifty thousand, six hundred two dollars and eighty-six cents ($50,602.86) so Respondent Wilson could obtain commissions on the repeated sale of new policies to Gunter.

103. Based on all her encounters with Respondents, on or about September 29, 2013, Gunter filed a preliminary investigative report with the Pigeon Forge Police Department.

104. To date, Respondents have not paid back any of the approximate one hundred eighty-one thousand dollars ($181,000) misappropriated from Gunter.

DONNA SIEWERT

105. During early 2011, Donna Siewert ("Siewert") heard Respondents' radio advertisement on The Retirement Solutions Show, promoting tax free retirement and called the number provided, which was that of the Respondents.

106. Respondents returned Siewert's call and made an appointment to meet with her for the purposes of bringing her the advertised book and discussing investment opportunities with her.

107. Upon the advice of Respondents, Siewert opened a life insurance policy with Life Insurance Company of the Southwest ("LSW"), with an effective date of April 20, 2011.

108. The LSW life insurance policy's minimum monthly premium payment, an extreme approximate eight thousand, eight hundred seventy-five dollars and fifty cents ($8,875.50), with an annual premium payable in the approximate amount of one hundred ninety-three thousand dollars ($193,000), was impossible for Siewert to pay considering her financial condition at the time of application, and throughout her dealings with Respondents.

109. Respondents repeatedly advised Siewert to obtain this extraordinarily expensive LSW life insurance policy, despite knowing her annual income was approximately seventy-five thousand dollars ($75,000).

110. Instead of locating a more affordable and appropriate investment for Siewert, Respondents pressured Siewert to sell her real estate holdings to fund the LSW life insurance policy.

111. On or about April 25, 2011, upon the advice of Respondents, Siewert surrendered her two (2) existing Hartford variable life insurance policies, one in the amount of approximately forty-six thousand, five hundred forty dollars and sixty-three cents ($46,540.63), and the other in the amount of approximately fifty-one thousand, eight hundred forty-six dollars and eighteen cents

($51,846.18). These policies were surrendered for the purpose of funding Siewert's LSW life insurance policy.

112. On or about April 20, 2011, upon the advice of Respondents, Siewert sent a check to LSW in the amount of approximately one hundred forty-three thousand dollars ($143,000) for the purpose of funding her LSW life insurance policy.

113. For the purpose of funding the LSW life insurance policy, and at the insistence of Respondents, on or about May 2, 2011, Siewert surrendered her existing approximate twenty-six thousand, twenty-two dollar and ninety-eight cent ($26,022.98) Lincoln Variable Life Insurance Company ("Lincoln") variable life insurance policy. This policy was surrendered for the purpose of funding Siewert's LSW life insurance policy.

114. 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, Respondents sent a check to Siewert for approximately eighteen thousand, six hundred fifty dollars ($18,650.00), knowing there were not sufficient funds for such a transaction in PFG's bank account. Consequently, on or about May 5, 2011, this check deposited into Siewert's account was returned due to insufficient funds.

115. On or about May 5, 2011, Respondents wired approximately eighteen thousand, six hundred fifty dollars ($18,650.00) to Siewert for the purpose of assisting payment of her LSW life insurance policy.

116. On or about May 9, 2011, Respondents sent a check to Siewert for approximately eighteen thousand, six hundred fifty dollars ($18,650.00), knowing there were not sufficient funds for such a transaction in PFG's bank account. Consequently, on or about May 11, 2011, this check deposited into Siewert's account was returned due to insufficient funds.

117. On or about May 10, 2011, upon the advice of Respondents, Siewert surrendered her existing Hartford annuity in the amount of approximately twenty thousand, eight hundred sixty-four dollars and fifty-one cents ($20,864.51) for the purpose of funding her LSW life insurance policy.

118. On or about May 20, 2011, Respondents convinced Siewert to wire them approximately eighteen thousand, five hundred seventeen dollars ($18,517).

119. On or about February 20, 2013, Respondents, knowing she lacked sufficient funds, advised Siewert that they would write her a check for approximately thirty-seven thousand dollars ($37,000), and that she was to write an approximate thirty-seven thousand ($37,000) dollar check and send it to LSW to fund her LSW life insurance policy.

120. On or about February 20, 2013, Respondents wrote Siewert a check in the amount of approximately thirty-seven thousand dollars ($37,000), knowing there were not sufficient funds for such a transaction in PFG's bank account. Consequently, on or about February 25, 2013, this check deposited into Siewert's account was returned due to insufficient funds.

121. On or about February 20, 2013, Siewert sent LSW a check for approximately thirty-seven thousand dollars ($37,000) to fund the policy, however, as the promised funds did not come through from Respondents, Siewert's check bounced and she was assessed a returned check fee in the amount of approximately seventy dollars ($70).

122. On or about February 25, 2013, Respondents sent Siewert another approximate thirty-seven thousand dollars ($37,000) knowing, again, that there were not sufficient funds for such a transaction in PFG's bank account. Consequently, on or about February 28, 2013, this check deposited into Siewert's account was returned due to insufficient funds.

123. On or about February 26, 2013, upon the urging of Respondents, for the purpose of funding her LSW life insurance policy, Siewert completed a reverse mortgage, which yielded

approximately two hundred sixty-four thousand, four hundred sixty-nine dollars and seven cents ($264,469.07).

124. Siewert's home is a six (6) bedroom, six (6) bathroom historical landmark house, worth, at an absolute minimum, twice the amount received in Respondents' suggested reverse mortgage. Furthermore, Siewert's house was entirely paid off at the time of the reverse mortgage, she owed only property taxes on the house each year, and the house operated as a bed and breakfast.

125. On or about March 1, 2013, Respondents convinced Siewert to wire approximately sixty-seven thousand, four hundred sixty-nine dollars ($67,469) to PFG's bank account for the purpose of funding her LSW life insurance policy.

126. On or about March 5, 2013, Respondents remitted approximately four thousand, eight hundred fifty-eight dollars ($4,858) from PFG to LSW for Siewert's LSW life insurance policy.

127. On or about April 12, 2013, Respondents convinced Siewert to wire approximately one hundred thirty thousand dollars ($130,000) to PFG for the purported purpose of funding her LSW life insurance policy.

128. Of the approximate one hundred thirty thousand dollars ($130,000) Siewert wired to Respondents, on or about April 17, 2013, Respondents remitted approximately one hundred thousand dollars ($100,000) to Siewert's LSW life insurance policy.

129. On or about February 20, 2014, Respondents sent approximately eight thousand, eight hundred seventy-five dollars and fifty cents ($8,875.50) from PFG to LSW for Siewert's LSW life insurance policy.

130. On or about March 27, 2014, Respondent Wilson sent approximately eight thousand, eight hundred seventy-five dollars and fifty cents ($8,875.50) from PFG to LSW for Siewert's LSW life insurance policy.

131. On or about March 31, 2014, without Siewert's knowledge or permission, Respondent Wilson completed an application for life insurance with Midland National Life Insurance Company ("Midland National") for Siewert.

132. In so applying, Respondent Wilson forged Siewert's signature on the Midland National life insurance application.

133. On or about April 19, 2014, Respondent Wilson forged Siewert's signature on two (2) Vertis Settlement Partners documents, which were subsequently submitted to LSW requesting information about Siewert's LSW life insurance policy.

134. On or about April 28, 2014, Respondents sent approximately eight thousand, eight hundred seventy-five dollars and fifty cents ($8,875.50) from PFG to LSW for Siewert's LSW life insurance policy, even though they did not have the sufficient funds to make such payment. As such, on or about May 12, 2014, this payment was removed from Siewert's LSW life insurance policy.

135. On or about May 8, 2014, Respondent Wilson instructed Siewert to write an approximate one hundred eighty-five thousand dollar ($185,000) check to fund the Midland National policy, despite her objections that she did not have funds for such a payment.

136. On or about May 16, 2014, after having convinced Siewert to write the approximate one hundred eighty-five thousand dollar ($185,000) check by assuring her they would not allow the check to be deposited, Respondents attempted to deposit the check on two (2) separate occasions. Siewert's check was returned, not surprisingly, for insufficient funds, causing her to incur approximately seventy dollars ($70) in returned check fees.

137. In total, to fund the unsuitably expensive LSW life insurance policy sold by Respondents, Siewert paid approximately one hundred eighty thousand dollars ($180,000) to LSW.

138. Additionally, for the purpose of funding her LSW life insurance policy and with the belief they would appropriately remit the funds, Siewert gave an approximate total of one hundred ninety-seven thousand, three hundred thirty-six dollars ($197,336) to Respondents.

139. Respondents remitted an approximate total of one hundred twenty-two thousand, six hundred nine dollars ($122,609) of Siewert's funds to LSW for the purpose of funding her LSW life insurance policy.

140. Accordingly, Respondents misappropriated approximately seventy-four thousand, seven hundred twenty-seven dollars ($74,727) from Siewert.

141. To date, Respondents have not returned or remitted any of the approximate seventy-four thousand, seven hundred twenty-seven dollars ($74,727) misappropriated from Siewert.

VISHNU AND PHILOMENA CHOWBAY

142. Vishnu and Philomena Chowbay ("the Chowbays") first met Respondent Wilson in or about late 2002 or early 2003, when Mrs. Chowbay retired from Cigna Healthcare and Respondent Wilson assisted her in applying for Medicare, specifically Healthspring+ health insurance.

143. Sometime during 2005, Mr. Chowbay contacted Respondent Wilson to assist him in applying for Healthspring+ health insurance as well.

144. At this time, in or about 2005, Respondent Wilson told the Chowbays if they invested with him, they could earn a greater return on their investments than they were earning at that time.

145. Prior to Respondent Wilson's taking over their investments, the Chowbays 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 fifty thousand dollars ($50,000). The premium for these policies cost the Chowbays approximately one hundred dollars ($100) per policy per month.

146. On or about September 22, 2009, Respondent Wilson knowingly convinced the Chowbays 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.

147. The unsuitable Allianz joint last survivor policy only provides a death benefit to the Chowbay children once both Mr. and Mrs. Chowbay die; it does not provide any benefit to one spouse after the other has passed away.

148. This unsuitable Allianz joint last survivor policy has an annual premium of approximately twenty thousand, seven hundred three dollars ($20,703), with monthly premium payments averaging approximately three thousand dollars ($3,000), an amount in excess of that which the Chowbays could afford.

149. Respondent Wilson knew, based on their financial condition, the Chowbays could not afford this unsuitable Allianz joint last survivor policy.

150. Respondent Wilson failed to fully explain the Allianz joint last survivor policy to the Chowbays. Upon information and belief, had he properly explained this Allianz joint last survivor policy, the Chowbays would not have purchased the policy, as it does not benefit a surviving spouse.

151. On or about February 1, 2011, the Chowbay's sent Respondent Wilson a check in the amount of approximately five thousand, one hundred thirty-seven dollars ($5,137) addressed to Allianz for payment of their Allianz joint last survivor policy.

152. On or about February 1, 2011, Respondent Wilson 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 the Chowbays' check; subsequently misappropriating these funds from the Chowbays by depositing the check intended for Allianz into PFG's bank account.

153. On or about December 27, 2011, approximately ten (10) months later, Respondent Wilson sent the Chowbays a cashier's check in the amount of approximately five thousand, one hundred thirty-seven dollars ($5,137), intended as repayment of the misappropriated funds intended for Allianz.

154. On or about December 2, 2012, the Chowbays wrote a check in the amount of approximately ten thousand dollars ($10,000) addressed to Allianz for payment of their Allianz joint last survivor policy.

155. On or about December 2, 2012, Respondent Wilson materially altered the Chowbays' December 2, 2011, check by adding the words "or PFG" after the word "Allianz" on the "Pay to the order of" line of the Chowbays' check.

156. After altering the Chowbays' December 2, 2011, check, on or about December 2, 2011, Respondent Wilson attempted to deposit the check into PFG's bank account. However, Respondent Wilson's bank would not accept the check written, and gave the check back to him. Respondent Wilson wrote "void" on the check and returned it to the Chowbays.

157. To date, 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 ill-suited advice given by Respondent Wilson.

PAULA GILMORE

158. Paula Gilmore ("Gilmore") met Respondent Wilson in or about 2005, at a K-Mart where Respondent Wilson had a stand set up for the purpose of signing people up for insurance products through AARP, Inc.

159. Sometime during 2014, Respondent Wilson gained access to and possession of Gilmore's Citi Bank credit card, Discover credit card, Bank of America credit card, and First Tennessee bank account.

160. On or about July 15, 2014, Respondent Wilson used Gilmore's Discover credit card without her knowledge or permission to make an approximate two thousand dollar ($2,000) cash withdrawal. Respondent Wilson then deposited approximately one thousand, nine hundred fifty dollars ($1,950) of this withdrawal into Gilmore's bank account and informed her that this deposit was receipt of a dividend on one of the investments she allegedly held with Respondent Wilson.

161. On or about May 28, 2015, Respondent Wilson used Gilmore's Discover credit card, without her knowledge or permission, to make an approximate one thousand, two hundred dollar and nine cent ($1,200.09) purchase with Getaway Hilton Head for his vacation getaway.

162. On or about May 28, 2015, Respondent Wilson used Gilmore's Discover credit card, without her knowledge or permission, to make an approximate two thousand, nineteen dollar and thirty-two cent ($2,019.32) purchase with Getaway Hilton Head for his vacation getaway.

163. On or about June 7, 2015, Respondent Wilson used Gilmore's Discover credit card, without her knowledge or permission, to make four (4) separate approximate seventy-eight dollar and forty cent ($78.40) purchases with Microtel Inn and Suites by Shelbyville TN for an unknown purpose.

164. On or about June 8, 2015, Respondent Wilson used Gilmore's Discover credit card, without her knowledge or permission, to make an approximate one thousand, four hundred six dollar and five cent ($1,406.05) purchase with Titan Motor Nashville TN for unknown merchandise.

165. On or about June 10, 2015, Respondent Wilson used Gilmore's Discover credit card, without her knowledge or permission, to make an approximate one thousand, four hundred twenty-nine dollar and forty-eight cent ($1,429.48) purchase with Miken Sports for unknown merchandise.

166. On or about June 11, 2015, Respondent Wilson used Gilmore's Discover credit card, without her knowledge or permission, to make an approximate two hundred seven dollar and forty-five cent ($207.45) purchase with Miken Sports for unknown merchandise.

167. On or about June 16, 2015, Respondent Wilson used Gilmore's Citi Bank credit card, without her knowledge or permission, to make an approximate one hundred forty dollar and ninety-three cent ($140.93) purchase with Home Depot for unknown merchandise.

168. On or about June 18, 2015, Respondent Wilson used Gilmore's Citi Bank credit card, without her knowledge or permission, to make an approximate two dollar and ninety-seven cent ($2.97) purchase with Yippex ILotto.com for lottery tickets.

169. On or about June 19, 2015, Respondent Wilson used Gilmore's Citi Bank credit card, without her knowledge or permission, to make an approximate four dollar and ninety-five cent ($4.95) purchase with MDTELECARE/GREAMERPROD for unknown merchandise.

170. On or about June 23, 2015, Respondent Wilson used Gilmore's Bank of America credit card, without her knowledge or permission, to make an approximate one thousand, eight hundred dollar ($1,800) purchase with Infinity for his car payment.

171. On or about June 23, 2015, Respondent Wilson used Gilmore's Bank of America credit card, without her knowledge or permission, to make an approximate twelve dollar and ninety-five cent ($12.95) purchase with BillMatrix Corporation for a fee associated with his Infiniti car payment made over the phone.

172. On or about June 23, 2015, Respondent Wilson used Gilmore's Citi Bank credit card, without her knowledge or permission, to make an approximate nineteen dollar and ninety-nine cent ($19.99) purchase with Yippex ILotto.com for lottery tickets.

173. On or about June 24, 2015, Respondent Wilson used Gilmore's Citi Bank credit card, without her knowledge or permission, to make an approximate one dollar ($1.00) purchase with TLG Shoppers Advant for unknown merchandise.

174. On or about June 24, 2015, Respondent Wilson used Gilmore's Citi Bank credit card, without her knowledge or permission, to make an approximate one dollar ($1.00) purchase with TLG Great Fun for unknown merchandise.

175. On or about July 2, 2015, Respondent Wilson used Gilmore's Citi Bank credit card, without her knowledge or permission, to make an approximate four dollar and ninety-five cent ($4.95) purchase with Great American Products for unknown merchandise.

176. On or about July 7, 2015, Respondent Wilson used Gilmore's Citi Bank credit card, without her knowledge or permission, to make an approximate twenty-four dollar and ninety-seven cent ($24.97) purchase with Great American Products for unknown merchandise.

177. On or about July 8, 2015, Respondent Wilson used Gilmore's Citi Bank credit card, without her knowledge or permission, to make an approximate twenty-four dollar and ninety-seven cent ($24.97) purchase with MDTELECARE/GREAMERPROD for unknown merchandise.

178. On or about July 13, 2015, Respondent Wilson used Gilmore's Bank of America credit card, without her knowledge or permission, to make an approximate eight hundred eighty-six dollar and thirty-one cent ($886.31) purchase to AT&T for bill payment.

179. On or before August 4, 2015, Respondent Wilson used Gilmore's Citi Bank credit card, without her knowledge or permission, to make an approximate four hundred twenty-three dollar ($423) purchase to Chase for unknown merchandise.

180. On or before August 4, 2015, due to Respondent Wilson's use of Gilmore's Discover credit card, Gilmore was assessed an approximate seventy-five dollar ($75) charge to Discover Payment Protection for a fraudulent payment protection plan.

181. On or about August 4, 2015, Gilmore, with the assistance of her daughter, reported the theft of her Citi Bank credit card by Respondent Wilson, and all subsequent charges made using the credit card by Respondent Wilson, to the Metro Nashville Police Department.

CONCLUSIONS OF LAW

1. At all times relevant hereto, Tenn. Code Ann. § 56-6-112(a) has provided that the Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license issued under Title 56, Part 6, Chapter 1, or issue a civil penalty for any one (1) or more of the following reasons:

> . . . .
>
> (2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;
>
> . . . .
>
> (4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
>
> (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
>
> . . . .
>
> (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[.]

. . . .

2. For all violations occurring on or after July 6, 2008, Tenn. Comp. R. & Regs. 0780-01-86-.06(1) provides:

> In recommending to a consumer the purchase of an annuity or the exchange of an annuity that results in another insurance transaction or series of insurance transactions, the insurance producer . . . . shall have reasonable grounds for believing that the recommendation is suitable for the consumer on the basis of the facts disclosed by the consumer as to his or her investments and other insurance products and as to his or her financial situation and needs.

3. At all times relevant hereto, Tenn. Comp. R. & Regs. 0780-01-24-.05(2) provides that when an agent is replacing a client's life insurance, the agent must:

> Present to the applicant, not later than at the time of taking the application, a "Notice Regarding Replacement" in the form as described in Exhibit A, or other substantially similar form approved by the Commissioner. The Notice shall be signed by both applicant and the agent and left with the applicant. Obtain with or as part of each application a list of all existing life insurance to be replaced and properly identified by name of insurer, the insured and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed.

4. At all times relevant hereto, Tenn. Code Ann. § 39-14-121(a)(1)(A) instructs that a person commits a violation when a person knowingly or with fraudulent intent "[i]ssues or passes a check . . . . for the purpose of obtaining money, services, labor, credit or any other article of value, knowing at the time there are not sufficient funds in or on deposit with the bank or other drawee for the payment of the check or order, as well as all other checks or orders outstanding at the time of issuance[.]"

5. At all times relevant hereto, Tenn. Code Ann. § 39-14-114 provides that forging a writing, including the alteration of a writing without authorization to so alter, with the intent to harm another, has committed a violation.

6. At all times relevant hereto, Tenn. Code Ann. § 39-14-150(b)(1) provides that a person commits identity theft when the person ". . . . knowingly obtains, possesses, buys, or uses, the personal identifying information of another . . . ." in ". . . . obtaining or attempting to obtain credit, goods, services, or medical information in the name of such other person . . . ." without some lawful basis to so obtain.

7. For all violations occurring on or before June 30, 2011, Tenn. Code Ann. § 56-2-305 (2008) states:

> (a) If . . . the commissioner finds that any insurer, person, or entity required to be licensed, permitted, or authorized by the division of insurance has violated any statute, rule or order, the commissioner may, at the commissioner's discretion, order:
>
> (1) The insurer, person, or entity 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), unless the insurer, person, or entity knowingly violates a statute, rule or order, in which case the penalty shall not be more than twenty-five thousand dollars ($25,000) for each violation, not to exceed an aggregate penalty of two hundred fifty thousand dollars ($250,000). This subdivision (a)(2) shall not apply where a statute or rule specifically provides for other civil penalties for the violation. For purposes of this subdivision (a)(2), each day of continued violation shall constitute a separate violation; and
>
> (3) The suspension or revocation of the insurer's, person's, or entity's license.
>
> (b) In determining the amount of penalty to assess under this section, or

in determining whether the violation was a knowing violation for the purpose of subdivision (a)(2), the commissioner shall consider any evidence relative to the following criteria:

(1) Whether the insurer, person or entity could reasonably have interpreted its 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) Whether the amount imposed would put the violator in a hazardous financial condition;

(4) The circumstances leading to the violation;

(5) The severity of the violation and risk of harm to the public;

(6) The economic benefits gained by the violator as a result of noncompliance;

(7) The interest of the public; and

(8) The insurer's, person's, or entity's efforts to cure the violation.

8. For all violations occurring on or after July 1, 2011, Tenn. Code Ann. § 56-6-112 (2011) states:

. . . .

(e) The commissioner shall retain the authority to enforce this part and impose any penalty or remedy authorized by this part and this title against any person who is under investigation for or charged with a violation of this part or this title, even if the person's license has been surrendered or has lapsed by operation of law.

. . . .

(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.

(h) In determining the amount of penalty to assess under this section, the commissioner shall consider:

(1) Whether the person could reasonably have interpreted such person's actions to be in compliance with the obligations required by a statute, rule or order;

(2) Whether the amount imposed will be a substantial economic deterrent to the violator;

(3) The circumstances leading to the violation;

(4) The severity of the violation and the risk of harm to the public;

(5) The economic benefits gained by the violator as a result of noncompliance;

(6) The interest of the public; and

(7) The person's efforts to cure the violation.

9. Tenn. Code Ann. § 4-5-320(c) states, in pertinent part, if an ". . . agency finds that public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined."

10. Based on the above Findings of Fact, continuation of Respondent Wilson's insurance producer license would be hazardous to the public due to evidence showing Respondent Wilson's continuous and extreme violations of Tennessee Insurance Law. Therefore, the public health, safety, and welfare necessitate summary relief in this case.

NOW, THEREFORE, in consideration of the foregoing, it is **ORDERED** that:

1. Respondent Wilson's insurance producer license issued by the State of Tennessee is hereby **SUMMARILY SUSPENDED**, pursuant to Tenn. Code Ann. §§ 4-5-320(c) and (d), until such time as a hearing is held on the merits of the Division's Notice of Hearing and Charges.

2. If requested, an informal conference shall be held within seven (7) business days upon issuance of this Order, pursuant to Tenn. Code Ann. § 4-5-320(d), to discuss the circumstances affecting the public health, safety and welfare which warranted the issuance of this Order of Summary Suspension. A date for such an informal conference will be set and Respondent will be notified of the date when such informal conference may occur, should Respondent request one.

Entry of this Order shall not in any way restrict the Division or the Commissioner from taking further action with respect to these or other possible violations by the Respondent of Tennessee Law or any of the Rules promulgated thereunder.

This Order shall become a Final Order thirty (30) days from the date of its entry.

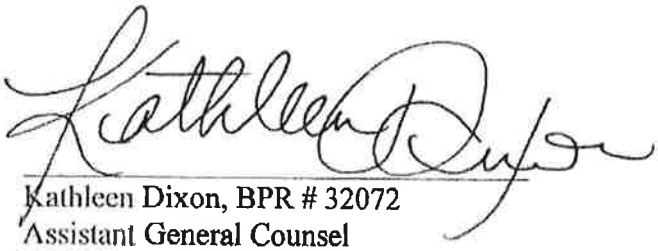
IT IS SO ORDERED.

ENTERED this the 14th day of October, 2015.

Julie Mix McPeak

Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:



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kathleen.dixon@tn.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of this document will be served upon the addresses below *via* U.S. Mail and Certified Mail, Return Receipt Requested, postage prepaid, on the 16th day of October, 2015, and that the original has been filed with the Administrative Procedures Division on the 15th day of October, 2015.

John Oscar Wilson, III
6510 Whittemore Lane
Antioch, Tennessee 37013-4802

Return Receipt No.:7014 1200 0001 7187 5534

James Allen Ford, Jr.
103 Blue Hills Court
Nashville, Tennessee 37214-2101

Return Receipt No.:7014 1200 0001 7187 0232

Kathleen Dixon