

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

IN THE MATTER OF:

ANTHONY KEITH ALEXANDER

DOCKET NO. 12.01-123271J

NOTICE

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **December 26, 2013**.

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 ROSA PARKS AVENUE, 8th FLOOR
NASHVILLE, TENNESSEE 37243-1102

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472**. PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

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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.)
ANTHONY KEITH ALEXANDER,)
Respondent,)

DOCKET NO. 12.01-123271J

NOTICE OF DEFAULT AND INITIAL ORDER

This matter was heard on December 3, 2013, in Nashville, Tennessee before the Honorable Thomas G. Stovall, Administrative Law Judge, assigned by the Secretary of State, Administrative Procedures Division, to sit for the Commissioner of the Tennessee Department of Commerce and Insurance ("Commissioner"). James R. Witham, Assistant General Counsel, represented the Petitioner, the Tennessee Insurance Division ("Division"), in this matter. Anthony Keith Alexander, Respondent, was not present nor was an attorney present on his behalf.

NOTICE OF DEFAULT

Petitioner moved for default based on failure of the Respondent, or his representative, to appear at the scheduled hearing after receiving proper notice thereof. In support of the motion, Petitioner submitted: (1) a certified mail receipt showing that the Notice of Hearing and Rights of Respondent ("Notice") was sent to Respondent's address on October 22, 2013; and (2) a certified mail receipt showing that such Notice was signed by Respondent, or an agent of Respondent, on October 24, 2013. Furthermore, the record shows that Respondent engaged in communications with a representative of the Division indicating he had received said Notice.

The record indicates that service was legally sufficient in accordance with Tenn. Code Ann. §§ 4-5-307 and 56-6-112(f); and Tenn. Comp. R. & Regs. 1360-4-1-.06 and 1360-4-1-.15(c). The Respondent was held in **DEFAULT** and Petitioner was permitted to proceed on an uncontested basis.

INITIAL ORDER

The subject of this hearing was the proposed revocation of Respondent's Tennessee insurance producer license and entry of an order assessing civil penalties against Respondent for violations of Tenn. Code Ann. §§ 56-6-112(a)(4), and (8) (2011). After consideration of the evidence, testimony, and entire record in this matter, it is determined that: the Respondent's insurance producer license is **REVOKED**; and Respondent is **ORDERED** to pay a civil monetary penalty of one hundred dollars (\$100.00) for each violation of the Tennessee Insurance Law, totaling eight thousand one hundred dollars (\$8,100.00).

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

FINDINGS OF FACT

1. The Division is the lawful agent through which the Commissioner administers the Law, and is authorized to bring this action for the protection of the people.
2. Respondent is a Tennessee Resident and currently resides at 1261 Worthington Street, Memphis, Tennessee 38114. Respondent is licensed by the Division to sell insurance in Tennessee, having obtained said license, numbered 0923031, on January 21, 2005. Respondent's license expires on August 31, 2015.

3. Respondent managed and operated a business called "Secured Trust" to conduct insurance sales on behalf of Omni Insurance Group ("Omni") within the state of Tennessee.

4. On or about August 3, 2010, Respondent entered into an insurance producer agreement with Omni.

5. Pursuant to this agreement, Respondent was appointed to sell insurance products as a general agent for Omni. According to the agreement, Respondent had several responsibilities owed to Omni. He was responsible for collecting insurance premiums due and owing to Omni. Furthermore, he was responsible for depositing these premiums into a designated bank account that was periodically drafted by Omni.

6. Respondent had an obligation to collect premiums obtained from clients and hold these premiums in a fiduciary capacity until Omni collected them from Secured Trust's designated bank account.

7. Respondent had a fiduciary obligation to ensure that all premium deposits due and owing to Omni were timely available for bank drafting by Omni.

8. Pursuant to the agreement entered into between Respondent and Omni, from on or about December 28, 2011, to on or about April 24, 2012, eighty one (81) bank drafts were drawn by Omni on Secured Trust's designated bank account.

9. On or about the following dates, Omni was unable to collect the following client policy holder premium payments from Respondent:

	<u>Date</u>	<u>Policy Holder and Number</u>	<u>Premium Amount Due</u>
(1).	12/28/11,	Trennis Austin, 3981474,	\$113;
(2).	12/28/11,	Marion Rainey, 3981486,	\$86;
(3).	12/28/11,	Quillita Rayford, 3981500,	\$90;
(4).	12/28/11,	Shelly Vaughn, 3981520,	\$84;

(5).	12/28/11,	Helena Scanlan, 3981663,	\$77;
(6).	12/28/11,	Christopher Bailey, 3981679,	\$58;
(7).	12/28/11,	Larry Boykins, 3981748,	\$85;
(8).	12/28/11,	Willie Sanders, 3981769,	\$124;
(9).	12/29/11,	Marene Gibson, 3982263,	\$114;
(10).	12/29/11,	Antonio Batey, 3982354,	\$150;
(11).	12/29/11,	Michelle Williamson, 3982750,	\$85;
(12).	12/30/11,	Patricia Smith, 3982915,	\$113;
(13).	01/03/12,	Jacqueline Johnson, 3983290,	\$122;
(14).	01/03/12,	Ebony Finnie, 3983452,	\$77;
(15).	01/03/12,	Ebony Finnie, 3983514,	\$57;
(16).	01/03/12,	Shavonda Byest, 3983623,	\$102;
(17).	01/05/12,	Danielle Dooley, 3984565,	\$119;
(18).	01/05/12,	Prentiss Simmons, 3984576,	\$111;
(19).	01/05/12,	Joey Chalmers, 3984633,	\$121;
(20).	01/05/12,	Gino Anzovino, 3984864,	\$121;
(21).	01/05/12,	Daniel Coleman, 3984921,	\$170;
(22).	01/05/12,	Julie Ford, 3984938,	\$151;
(23).	01/05/12,	Ramsey Rayford, 3984954,	\$154;
(24).	01/05/12,	Jima Lullen, 3985043,	\$98;
(25).	01/06/12,	Cedric Hayes, 3985335,	\$62;
(26).	01/06/12,	Abec Pool, 3985663,	\$95;
(27).	01/09/12,	Sherman Bradford, 3954283,	\$85;

(28).	01/09/12,	Elisa Locke, 3971984,	\$133;
(29).	01/09/12,	Stephanie Martin, 3986144,	\$118;
(30).	01/09/12,	James Tanksley, 3986242,	\$84;
(31).	01/09/12,	Khadijah Bland, 3986894,	\$150;
(32).	01/09/12,	Mayralia Montgomery, 3986901,	\$191;
(33).	01/10/12,	Jossiean Hopson, 3979046,	\$129;
(34).	01/10/12,	Lacasta Brooks, 3987360,	\$172;
(35).	01/10/12,	Lashonda Mungen, 3987436,	\$82;
(36).	01/10/12,	Joyce Braxton, 3987650,	\$80;
(37).	01/10/12,	Roman Mcclay, 3987752,	\$168;
(38).	01/10/12,	Latonya Rogers, 3987759,	\$91;
(39).	01/10/12,	Cantrenia Bolton, 3987874,	\$181;
(40).	01/10/12,	Shenia Martin, 3987974,	\$76;
(41).	01/10/12,	Pamela Poston, 3987977,	\$161;
(42).	01/11/12,	Carol Rayborn, 3940168,	\$171;
(43).	01/11/12,	Fallon Hayes, 3988174,	\$152;
(44).	01/12/12,	Rosie Strickland, 3934296,	\$161;
(45).	01/12/12,	Jasmine Patterson, 3957679,	\$152;
(46).	01/12/12,	Willie Sanders, 3981769,	\$114;
(47).	01/12/12,	Velvet Bell, 3983642,	\$90;
(48).	01/12/12,	Cachet King, 3988630,	\$75;
(49).	01/13/12,	Catrina Smith, 3989543,	\$143;
(50).	01/12/12,	Denise Taylor, 3990483,	\$127;

(51).	01/12/12,	Marla Holmes, 3991037,	\$110;
(52).	01/12/12,	Bianca Williams, 3991267,	\$151;
(53).	01/12/12,	Coletha Bernard, 3991292,	\$175;
(54).	01/12/12,	Cameron Davis, 3991324,	\$130;
(55).	01/17/12,	Lannia Phillips, 3954469,	\$130;
(56).	02/01/12,	Lannia Phillips, 3954469,	\$116;
(57).	02/01/12,	Marie Pollard, 4000198,	\$116;
(58).	02/01/12,	Dallas Sparks, 4000648,	\$1277;
(59).	02/03/12,	Rosie Strickland, 3934296,	\$32;
(60).	02/03/12,	Elisa Locke, 3971984,	\$133;
(61).	02/03/12,	Wesley Adams, 3977620,	\$100;
(62).	02/02/12,	Corneilus Martin, 4001903,	\$133;
(63).	02/03/12,	Irene Williams, 4002671,	\$102;
(64).	02/07/12,	Joyce Braxton, 3987650,	\$82;
(65).	02/07/12,	Miguel Ballester, 3995618,	\$115;
(66).	02/06/12,	Ashley Aikens, 4003280,	\$188;
(67).	02/06/12,	Tim Ward, 4003331,	\$264;
(68).	02/07/12,	Shaun Ellis, 4004341,	\$175;
(69).	02/07/12,	Lonzola Morris, 4004545,	\$120;
(70).	02/08/12,	Endora Newton, 4005799,	\$128;
(71).	02/09/12,	Danielle Dooley, 3984565,	\$121;
(72).	02/09/12,	Marie Pollard, 4000198,	\$115;
(73).	02/09/12,	Stacy Wilcher, 4007212,	\$141;

(74).	02/09/12,	Laricko Strickland, 4007320,	\$174;
(75).	02/09/12,	Latrice Halliburton, 4007964,	\$162;
(76).	04/10/12,	Joyce Braxton, 3987650,	\$82;
(77).	04/12/12,	Marie Pollard, 4000198,	\$115;
(78).	04/23/12,	Karen Woodard, 3949148,	\$154;
(79).	04/23/12,	Travis Ngo, 4059962,	\$140;
(80).	04/24/12,	Willie Sanders, 3981769,	\$126; and
(81).	04/24/12,	Nilva Vistorte, 4061141,	\$158.

10. The above-mentioned premiums enumerated in Paragraph 9 were past due and owing to Omni.

11. None of the above mentioned bank drafts enumerated in Paragraphs 8 and 9 by Omni were successful because Secured Trust's designated bank account was either closed or did not have sufficient funds.

12. Furthermore, Secured Trust's designated bank account incurred numerous overdraft fees which exacerbated Omni's ability to collect premiums owed by Respondent.

13. Respondent failed to timely remit approximately eleven thousand ninety dollars (\$11,090) in premiums owed to Omni.

14. Omni incurred one thousand one hundred seventy-five dollars (\$1,175.00) in overdraft or insufficient fund fees.

15. Due to lost premium collections, insufficient fund fees, and lost premiums due to policy cancellations, Respondent owes Omni sixteen thousand nine hundred ninety-nine dollars and thirty-nine cents (\$16,999.39).

CONCLUSIONS OF LAW

1. In accordance with Tenn. Comp. R. and Regs. 1360-4-1-.02(7), Petitioner bears the burden of proof in proving by a preponderance of the evidence that the facts alleged in the Petition are true and that the issues raised therein should be resolved in its favor.

2. Tenn. Code Ann. § 56-6-112(a) (2011) provides in pertinent part that “[t]he commissioner may place on probation, suspend, revoke or refuse to issue or renew a license issued under this part or may levy a civil penalty in accordance with this section or take any combination of those actions, for any one (1) or more of the following causes:

- (4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
-
- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere[.]”

3. Tenn Code Ann. § 56-6-112(g)(2) (2011) permits a maximum penalty of one thousand dollars (\$1,000) per violation of Tenn. Code Ann. § 56-6-112(a), up to a total maximum aggregate penalty of one- hundred thousand dollars (\$100,000). Each day of continued violation shall constitute a separate violation.

4. In deciding the appropriate penalty, Tenn. Code Ann. § 56-6-112(h) (2011) requires the Commissioner to consider the following:

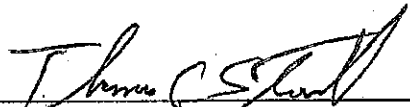
- (1) Whether the person could reasonably have interpreted such person’s actions to be in compliance with the obligations required by a statute, rule or order;
- (2) Whether the amount imposed will be a substantial economic deterrent to the violator;
- (3) The circumstance leading to the violation;
- (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.

5. The Petitioner has met its burden of proof by a preponderance of the evidence that, on eighty-one (81) separate occasions, the Respondent improperly withheld money due and owing to Omni in the course of doing insurance business and demonstrated incompetence and financial irresponsibility in the conduct of doing business in Tennessee, constituting grounds for an order revoking Respondent's insurance producer license and levying civil penalties pursuant to Tenn. Code Ann. § 56-6-112(g)(2).

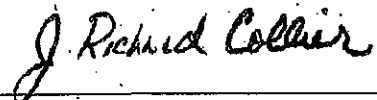
It is therefore **ORDERED** that the insurance producer license of Anthony Keith Alexander, numbered 0923031, be **REVOKED**, and that the Respondent pay a civil penalty of one hundred dollars (\$100.00) for each violation, for a total of **EIGHT THOUSAND ONE HUNDRED DOLLARS (\$8,100.00)** within sixty (60) days of receipt of this Order.

This Initial Order entered and effective this 11th day of December, 2013.

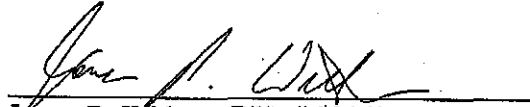

Thomas G. Stovall, Administrative Judge

2013.

Filed in the Administrative Procedures Division, this 11th day of DEC.,


J. Richard Collier, Director
Administrative Procedures Division

APPROVED FOR ENTRY:

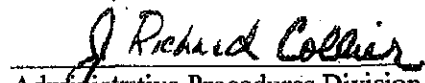

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Assistant General Counsel
Department of Commerce and Insurance
Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243
615-253-7848
james.witham@tn.gov

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of Default and Initial Order has been sent *via* email and United States Mail, first class, postage prepaid, to the following mailing address.

Anthony Keith Alexander
1261 Worthington St.
Memphis, TN 38114
aamktng@gmail.com

This 11th day of DEC, 2013.


Administrative Procedures Division
Office of the Secretary of State

**APPENDIX A TO INITIAL ORDER
NOTICE OF APPEAL PROCEDURES**

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243-1102. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) starts to run from the entry date of an order disposing of a petition for reconsideration, or from the twentieth day after filing of the petition, if no order is issued. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.