



**State of Tennessee**  
**Department of State**

Administrative Procedures Division  
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September 3, 2020

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Tennessee Department of Commerce &  
Insurance  
Office of Legal Counsel  
12<sup>th</sup> Floor, Davy Crockett Tower  
500 James Robertson Parkway  
Nashville, Tennessee 37243

Darrell K. Davis  
608 Elm Avenue  
South Pittsburg, TN 37380

RE: In the Matter of: Darrell Davis  
Docket No. 12.01-152675J

Enclosed is an order rendered in the above-styled cause of action.

Administrative Procedures Division  
Tennessee Department of State

/rer  
Enclosure

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

**IN THE MATTER OF:**

**TENNESSEE DEPARTMENT OF  
COMMERCE & INSURANCE,  
INSURANCE DIVISION,  
*Petitioner,***

**v.**

**DARRELL K. DAVIS,  
*Respondent.***

**APD CASE NO: 12.01-152675J  
TID No.: 18-056**

**INITIAL ORDER**

This matter was heard on February 24, 2020, in Nashville, Tennessee, before Administrative Judge Mary M. Collier, assigned by the Secretary of State, Administrative Procedures Division (“APD”), to sit for the Commissioner of the Tennessee Department of Commerce and Insurance. Associate General Counsel for the Department, Ms. Renita Hollins, represented the Petitioner, the Tennessee Department of Commerce and Insurance, Insurance Division (the “Division”). Mr. Darrell K. Davis (“Respondent”) appeared *pro se*, waiving the right to have an attorney represent him. The hearing was held at 1:00 p.m. Central Time in a conference room on the 11<sup>th</sup> floor of the Davy Crockett Tower.

The hearing was originally scheduled for 9:00 a.m. Central Time in a conference room on the 1<sup>st</sup> floor of the Davy Crockett Tower. However, after a pre-hearing telephone conference on the morning of the hearing, the time for the hearing was changed to allow the Respondent time to travel to the hearing. The hearing transcript was ordered at the conclusion of the hearing and filed with APD on May 22, 2020. The Petitioner also filed a proposed INITIAL ORDER. The

parties were not required to submit a post hearing brief. The decision was rendered on the record after closing arguments.

The subject of the hearing was the Division's allegations that the Respondent had violated laws, rules, and regulations of the State of Tennessee. Specifically, the Division alleged that the Respondent had violated TENN. CODE ANN. § 56-6-112(a)(4) and (8).

The Respondent is registered as a Tennessee resident insurance producer. The Respondent's insurance producer license number is 0035912. On the date of the hearing, the Respondent's insurance producer license was due to expire February 29, 2020. The NOTICE OF HEARING AND CHARGES ("NOH") was filed with APD on August 14, 2019.

After consideration of the evidence presented at the hearing and the arguments of the parties, Administrative Judge Collier made a decision based upon the following Findings of Fact and Conclusions of Law.

#### **SUMMARY OF EVIDENCE**

Thomas Smith, Investigator III, with the Division's Financial Services Investigations Unit ("FSIU") testified on behalf of the Division. The Respondent testified in the Division's case in chief as well as the Respondent's case. There were two (2) exhibits entered into evidence during the hearing.

#### **FINDINGS OF FACT**

1. On or about January 2, 2016, an insurance premium payment in the amount of six hundred eleven dollars and ninety-one cents (\$611.91) was made to the Respondent's office by Tammy Rogers ("Ms. Rogers") for an Alfa Vision ("Alfa") insurance policy.

2. On January 2, 2016, the Respondent transmitted a partial payment to Alfa on Ms. Rogers' behalf.

3. Sometime between January 2, 2016, and February 24, 2016, Ms. Rogers contacted the Respondent and notified him that Alfa was billing her for installment payments when she thought she had paid for six (6) months in full.

4. On February 24, 2016, the Respondent paid to Alfa (also known as Alfa Vision and / or Vision) four hundred eighty-two dollars and forty-eight cents (\$482.48), which was the amount that Alfa notified the Respondent by telephone was the remaining amount owed for Ms. Rogers' policy.

5. In January of 2016, the Respondent was authorized to collect premiums on behalf of Alfa.

6. In the case of Ms. Rogers, the Respondent did not submit the full amount to Alfa, due to what appears to have been an error on the Respondent's part after he opened his office on a Saturday to assist his customer.

7. Since 2016, the Respondent has put in place safeguards in his office to avoid having this type of error occur again in the future.

8. There is no evidence in the record that the Respondent had this type of error occur on more than this one (1) occasion involving Ms. Rogers.

9. In the Respondent's approximate thirty-two (32) years as a licensed insurance producer in the State of Tennessee, this is the only occurrence that has led the Division to contact the Respondent regarding any type of complaint with the Division.

10. On the date of the hearing, it had been four (4) years to date since the Respondent remitted the money in question in this case.

### CONCLUSIONS OF LAW

1. The Respondent violated TENN. CODE ANN. § 56-6-112(a)(4) by improperly withholding the funds in question for approximately fifty (50) to fifty-five (55) days.
2. A civil penalty in the amount of two hundred fifty dollars (\$250) is assessed against the Respondent for the violation of TENN. CODE ANN. § 56-6-112(a)(4) by improperly withholding the funds in question.
3. The Respondent is not found to have violated TENN. CODE ANN. § 56-6-112(a)(8) because the Respondent is not found to have engaged in fraudulent, coercive, or dishonest practices in this matter.
4. While improper, the Respondent's actions do not rise to the level of either financial irresponsibility or incompetence.
5. The Respondent's insurance license shall not be revoked for this matter.

### JUDGMENT<sup>1</sup>

It is, therefore, **ORDERED, ADJUDGED, and DECREED** that the Respondent's Tennessee insurance license is **NOT REVOKED**.

It is further **ORDERED, ADJUDGED, and DECREED** that civil penalties in this matter are assessed against the Respondent in an amount deemed appropriate by the undersigned Judge; said amount is two hundred fifty dollars (\$250) for the violation of TENN. CODE ANN. § 56-6-112(a)(4).

This INITIAL ORDER, imposing sanctions against the Respondent, is entered to protect the public and consumers of insurance products sold by Tennessee licensed insurance producers, consistent with the purposes fairly intended by policy and provisions of the Law.

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<sup>1</sup> The proposed INITIAL ORDER submitted by the Petitioner included an assessment of costs. Costs were not awarded to the Petitioner during the hearing and they are NOT assessed herein. No costs are assessed against the Respondent.

It is so ORDERED.

This INITIAL ORDER entered and effective **this the 3<sup>RD</sup> day of September, 2020.**



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MARY M. COLLIER  
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 **3<sup>RD</sup> day of September, 2020.**



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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](mailto:APD.Filings@tn.gov) or by **fax** 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**

Attached is the Administrative Judge's decision in your case before the Commissioner of the Tennessee Department of Commerce and Insurance, called an Initial Order, with an entry date of **September 3, 2020**. 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 **September 18, 2020**. A new 15 day period for the filing of an appeal to the Commissioner of the Tennessee Department of Commerce and Insurance (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 of the Tennessee Department of Commerce and Insurance. 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 of the Tennessee Department of Commerce and Insurance, 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 **September 18, 2020**. The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317.
- 3. The Commissioner of the Tennessee Department of Commerce and Insurance decides to Review the Initial Order:** In addition to a party filing an appeal of the Initial Order, the Commissioner of the Tennessee Department of Commerce and Insurance 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 of the Tennessee Department of Commerce and Insurance 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 on **September 21, 2020**. **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 **September 10, 2020**. *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 Agency deciding to modify or overturn the Initial Order, the Administrative Judge will consider the Petition. If the Commissioner of the Tennessee Department of Commerce and Insurance rendered a Final Order, the Commissioner of the Tennessee Department of Commerce and Insurance 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 of the Tennessee Department of Commerce and Insurance; 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 the date of entry of the 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 of the Department of Commerce and Insurance deciding to modify or overturn the Initial Order, the Administrative Judge will consider the Petition. If the Commissioner of the Tennessee Department of Commerce and Insurance rendered a Final Order, the Commissioner of the Tennessee Department of Commerce and Insurance 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  
William R. Snodgrass Tower  
312 Rosa L. Parks Avenue, 8<sup>th</sup> Floor  
Nashville, TN 37243-1102  
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