



State of Tennessee
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Administrative Procedures Division
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November 8, 2021

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**RE: TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE V.
CONSTANDINO HARRANTOS, APD Case No. 12.01-211711J**

Enclosed is an *Initial Order*, including a *Notice of Appeal Procedures*, rendered in this case.

Administrative Procedures Division
Tennessee Department of State

Enclosure(s)

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

IN THE MATTER OF:

**TENNESSEE DEPARTMENT OF
COMMERCE AND INSURANCE,**

Petitioner,

v.

CONSTANDINO HARRITOS,

Respondent.

APD Case No. 12.01-211711J

INITIAL ORDER

The hearing of this contested case was held on September 15, 2021, before Administrative Law Judge Richard M. Murrell, appointed by the Secretary of State and assigned to hear this matter on behalf of the Commissioner of the Tennessee Department of Commerce and Insurance. It was determined that the Respondent failed to appear after appropriate notice. It was further determined on the evidence including the testimony of witnesses, documentary proof, and the record as a whole, that the Respondent should be assessed a civil penalty for violations outlined below and that his license should be revoked.

ENTRY OF DEFAULT

Pursuant to Tenn. Code Ann. § 4-5-307, on June 3, 2021, the Petitioner filed a Notice of Hearing and Charges. Subsequently, this matter was set for a hearing on September 15, 2021. The named respondent in the Notice of Hearing and Charges is Constandino Harritos (“the Respondent”). The Respondent did not appear at the hearing, and the Petitioner moved for a default judgment against the Respondent pursuant to Tenn. Code Ann. § 4-5-309.

The Petitioner filed a Motion for Default prior to the hearing taking place. The following facts establish that the Petitioner was on notice of the hearing:

1. A letter sent pursuant to Tenn. Code Ann. § 4-5-320(c) placed the Respondent on notice of a potential action. The letter was sent to 2987 Pipkin Hills Drive, Spring Hill, TN 37174. According to USPS tracking, the letter was returned as undeliverable.

2. A letter sent to 219 12th Avenue, Apartment 1, Saint Petersburg, FL 33701, contained the Notice of Hearing and Charges. The letter contained a copy of the Notice of Hearing and Charges. According to USPS tracking, the letter was returned due to being unclaimed.

3. A letter sent to 631 Granville Court NE, Atlanta, GA 30328, contained the Notice of Hearing and Charges. The letter contained a copy of the Notice of Hearing and Charges. According to USPS tracking, the letter was returned due to being unclaimed.

4. The Respondent attempted to contact the Petitioner from the phone number, 404-447-4027, on September 10, 2021.

These facts, established at the hearing, demonstrate service upon the Respondent was legally sufficient in accordance with Tenn. Code Ann. § 4-5-307 and Tenn. Comp. R. & Regs. (“Rule”) 1360-04-01-.06. Based on the failure of the Respondent to appear, pursuant to Tenn. Code Ann. § 4-5-309 and Rule 1360-04-01-.15, the Respondent is in default. Pursuant to Rule 1360-04-01-.15(2)(b), the hearing was held on an uncontested basis.

FINDINGS OF FACT

5. The Respondent held a Tennessee resident insurance producer license, number 2018574, which became active on January 29, 2016. The Respondent’s license expired on October 31, 2018.

6. On or about April 8, 2017, the Respondent was arrested in Florida and charged with one (1) misdemeanor count and one (1) felony count.

7. On or about August 2, 2017, the Respondent was convicted of both

aforementioned counts. He was sentenced to a short period of incarceration as well as two (2) years of probation.

8. On or about November 17, 2017, the Florida Department of Insurance revoked the Respondent's non-resident insurance producer license as a result of the felony conviction.

9. On or about March 3, 2018, the Respondent was found guilty of violating his probation and sentenced to further incarceration.

10. The Respondent did not report the felony conviction to the Division within the required thirty (30) day period.

CONCLUSIONS OF LAW

11. In accordance with Rules 1360-04-01-.02(7) and 1360-04-01-.15(3), the Petitioner has shown by a preponderance of evidence that the facts alleged in the Notice of Hearing and Charges pertaining to the Respondent are true and that the issues raised therein should be resolved in its favor.

12. Although the Court recognizes that the Respondent's license had expired prior to the commencement of this litigation, Tenn. Code Ann. § 56-6-112(e) specifically authorizes the present action and any penalty or remedy available under Tennessee Insurance Law.

13. While licensed by the Petitioner, the Respondent was convicted of a felony.

14. The Respondent did not disclose to the Division that he had a felony conviction.

15. While licensed by the Petitioner, the Respondent had his Florida insurance license revoked.

16. The conduct of the Respondent creates grounds for the Petitioner to revoke the Respondent's license pursuant to Tenn. Code Ann. § 56-6-112(a)(2) and (6).

17. The conduct of the Respondent creates grounds for the Petitioner to assess a civil penalty against the Respondent pursuant to Tenn. Code Ann. § 56-6-112(g). Tenn. Code Ann.

§ 56-6-112(g)(2) states a penalty for each violation is capped at one thousand dollars (\$1,000) for each violation. Violating the rules and/or laws of the Florida Department of Insurance creates one (1) violation of Tenn. Code Ann. § 56-6-112(a)(2). Being convicted of a felony creates one (1) violation of Tenn. Code Ann. § 56-6-112(a)(6). This creates a maximum penalty of two thousand dollars (\$2,000).

18. Tenn. Code Ann. § 56-6-112(h) states that 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.

19. The Respondent knew, or should have known, he was responsible for disclosing the felony conviction. For this reason, Tenn. Code Ann. § 56-6-112(h)(1) weighs in favor of assessing the maximum civil penalty.

20. The Respondent no longer participates in the insurance industry. The Respondent's license expired on October 31, 2018. For this reason, Tenn. Code Ann. § 56-6-112(h)(2) weighs in favor of assessing a lower civil penalty.

21. It is determined that the proof introduced at trial demonstrates each violation provides adequate grounds for the imposition of the maximum monetary civil penalty of one

thousand dollars (\$1,000) under Tenn. Code Ann. § 56-6-112(g) for each violation, in the total amount of two thousand dollars (\$2,000).


JUDGMENT

It is therefore determined that:

1. The Respondent, Constandino Harritos, is ordered to fully comply with Tennessee Insurance Law, and all rules promulgated thereunder;
2. The Respondent's Tennessee insurance producer license, number 2018574, is revoked;
3. The Respondent is assessed a civil penalty of two thousand dollars (\$2,000) for statutory violations of the Tennessee insurance law mentioned above;
4. All persons in any way assisting, aiding, or helping the Respondent in any of the aforementioned violations of the Law are ordered to cease and desist all such activities; and
5. The costs of this cause (to include the costs of the Administrative Procedures Division) be assessed against the Respondent pursuant to Tenn. Code Ann. § 56-1-110(b)(1).

It is so **ORDERED**.

This INITIAL ORDER entered and effective this the **8th day of November, 2021**.


RICHARD M. MURRELL
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 **8th day of November, 2021**.



**STEPHANIE SHACKELFORD, DIRECTOR
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE**

NOTICE OF APPEAL PROCEDURES

REVIEW OF INITIAL ORDER

The Administrative Judge's decision in your case **BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE (COMMISSIONER)**, called an Initial Order, was entered on **November 8, 2021**. 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 with the Administrative Procedures Division (APD). A Petition for Reconsideration should include your name and the above APD case number and should state the specific reasons why you think the decision is incorrect. APD must **receive** your written Petition no later than 15 days after entry of the Initial Order, which is no later than **November 23, 2021**. A new 15 day period for the filing of an appeal to the **COMMISSIONER** (as set forth in paragraph (2), below) starts to run from the entry date of an order ruling on a Petition for Reconsideration, or from the twentieth day after filing of the Petition if no order is issued. Filing instructions are included at the end of this document.

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, which must be **received** by 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** by filing an Appeal of the Initial Order with APD. An Appeal of the Initial Order should include your name and the above APD case number and state that you want to appeal the decision to the **COMMISSIONER**, along with the specific reasons for your appeal. APD must **receive** your written Appeal no later than 15 days after the entry of the Initial Order, which is no later than **November 23, 2021**. The filing of a Petition for Reconsideration is not required before appealing. *See* TENN. CODE ANN. § 4-5-317.
3. **The COMMISSIONER decides to Review the Initial Order:** In addition, the **COMMISSIONER** 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** 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. **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 Stay must be **received** by APD within 7 days of the date of entry of the Initial Order, which is no later than **November 15, 2021**. *See* TENN. CODE ANN. § 4-5-316. 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.

NOTICE OF APPEAL PROCEDURES

REVIEW OF A FINAL ORDER

When an Initial Order becomes a 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 the Initial Order becomes a 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.

FILING

Documents should be filed with the Administrative Procedures Division by email *or* fax:

Email: APD.Filings@tn.gov

Fax: 615-741-4472

In the event you do not have access to email or fax, you may mail or deliver documents to:

Secretary of State
Administrative Procedures Division
William R. Snodgrass Tower
312 Rosa L. Parks Avenue, 8th Floor
Nashville, TN 37243-1102