

**STATE OF MISSISSIPPI
OFFICE OF THE COMMISSIONER OF INSURANCE**

**IN THE MATTER OF KENNETH C. WHITE,
INSURANCE PRODUCER LICENSE. #10241337**

FINDINGS AND ORDER

THIS CAUSE came on for hearing before the Commissioner of Insurance of the State of Mississippi (hereinafter “Commissioner”), by and through his specially designated appointee (hereinafter “Hearing Officer”), in the Office of the Commissioner, 10th Floor, Woolfolk State Office Building, 501 North West Street, Jackson, MS 39205, on Wednesday, March 11, 2015, at 10:00 a.m., pursuant to a Notice of Hearing and Statement of Charges served on Kenneth C. White, License #10241337 (Respondent). The Commissioner, by and through the designated Hearing Officer, Ms. Christina Kelsey, having heard and considered all of the testimony and evidence produced by the parties herein, makes the following findings:

AUTHORITY

The hearing was held pursuant to the provisions of Miss. Code Ann. § 83-17-71, *et seq.* (Rev. 2011), providing for the licensing of insurance producers by the Mississippi Insurance Department (MID) and disciplinary actions against producers.

NOTICE AND HEARING

1. The Notice of Hearing and Statement of Charges was personally served upon Respondent on February 11, 2015 pursuant to Miss. Code Ann. § 83-17-71 (Rev. 2011). (Exhibit S-2)
2. Respondent was advised in the “Notice of Hearing and Statement of Charges” of his right to be accompanied and represented by legal counsel, to cross-examine any witnesses, to present

evidence or testimony on his behalf, to have witnesses subpoenaed in order to give testimony and evidence on his behalf and to testify in his own behalf. (Exhibit S-1)

3. Pursuant to said notice a hearing was held at approximately 10:00 a.m. on March 11, 2015.
4. Respondent was present for the hearing, gave testimony and submitted evidence. (Exhibit R-1)
5. The Respondent was specifically charged with the following violations of law in the Notice of Hearing and Statement of Charges dated February 10, 2015:

- a. Miss. Code Ann. § 83-17-71(1) (h) (Rev. 2011), having demonstrated fraudulent and/or dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business by manipulating personal information by using the names of known persons, random persons and fictitious persons and placing them on multiple Aflac accounts.
- b. Miss. Code Ann. § 83-17-71(d) (Rev. 2011) by improperly withholding, misappropriating, or converting monies or properties received in the course of doing business by submitting applications to the company with invalid/false banking information resulting in him receiving \$2,487.76 in unearned, advanced commissions.

FINDINGS OF FACT

1. Respondent holds Mississippi insurance producer license No. 10241337.
2. On August 22, 2014, AFLAC Special Investigations unit investigator, Shawn Burke began an investigation into the Respondent's business practices. His detailed report was admitted into evidence as Exhibit S-4. During his testimony, the Respondent admitted that he had received and reviewed the Report of Investigation and the its details were accurate.
3. Aflac filed its formal Complaint with the Mississippi Insurance Department on

October 29, 2014. (Exhibit S-3)

4. On September 5, 2014 Mr. Burke interviewed the Respondent and recorded the conversation which was placed on a disc. (Exhibit S-6). Among his admissions were that he signed up random people knowing they were not employees; explained that he wrote bogus business thinking about the income coming in and that he was going through “a bad time”; and that he sent bogus applications to get the advanced commissions.

CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over this matter pursuant to Miss. Code Ann. § 83-17-71, *et seq.* (Rev. 2011), providing for the licensing of insurance producers by the MID and specifically providing for disciplinary actions against producers.
2. MID gave proper notice of the hearing and has fulfilled all relevant substantive and procedural requirements of law or rule.
3. MID Regulation Part I, Chapter 15, Rule 15.09, Para. L, Rules Regarding the Administrative Practice and Procedure before the Mississippi Insurance Department states the evidentiary standard for the hearing as follows; “Irrelevant, immaterial, and unduly repetitious evidence shall be excluded. Any other evidence, oral or documentary, not privileged, may be received if it is a type commonly relied upon by reasonably prudent men in the conduct of their affairs.”
4. Statutes and regulations must be strictly construed in favor of the licensee. *McFadden V. Miss. State Board of Medical Licensure*, 735 So. 2d 145 (Miss. 1999).
5. Regarding the charge of violating the provisions of Miss. Code Ann. § 83-17-71(1) (h) (Rev. 2011, Mr. White admitted to using the names of known persons, random persons and

fictitious persons and placing them under multiple Aflac accounts. Mr. White thereby violated the provisions of this code section.


6. Regarding the charge that Mr. White improperly withheld, misappropriated or converted monies by submitting applications to the company with invalid/false banking information, the record is clear that he did these acts to receive unearned advanced commissions totaling \$20,487.76.. Mr. White thereby violated the provisions of Miss. Code Ann. § 83-17-71(1) (d) (Rev. 2011).
7. Miss. Code Ann. § 83-17-71(1) (Rev. 2011) provides that the Commissioner may “place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in an amount not to exceed One Thousand Dollars (\$1,000.00) per violation”.
8. The aforementioned violations by Respondent constitute sufficient grounds for the imposition of disciplinary action per Miss. Code Ann. § 83-17-71(1) (Rev. 2011).

ORDER

IT IS, THISEFORE, ORDERED:

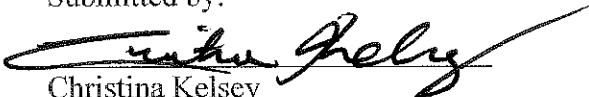
1. That the license of Respondent, Kenneth C. White, to act as an insurance producer in the State of Mississippi is hereby revoked.
2. Furthermore, Respondent, Kenneth C. White shall be fined One Thousand Dollars (\$1,000.00) for each of the two violations for a total fine of Two Thousand Dollars (\$2,000.00) to be paid to the Mississippi Insurance Department immediately.
Department immediately.

SO ORDERED, this the 18th day of March, 2015.



MIKE CHANEY
COMMISSIONER OF INSURANCE
STATE OF MISSISSIPPI

Submitted by:



Christina Kelsey
HEARING OFFICER

Prepared by:



Donald L. Kilgore
Special Assistant Attorney General