

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

**IN THE MATTER OF TOMMY B. BROOKS,  
INSURANCE PRODUCER LICENSE. #7702639**

**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, 10<sup>th</sup> Floor, Woolfolk State Office Building, 501 North West Street, Jackson, MS 39205, on Wednesday, April 8, 2015, at 10:00 a.m., pursuant to a Notice of Hearing and Statement of Charges served on Tommy B. Brooks, License #7702639 (Respondent). The Commissioner, by and through the designated Hearing Officer, Mr. Brandon White, 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 March 5, 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 April 8, 2015.
4. Respondent was present for the hearing, gave testimony and submitted evidence. (Exhibits R-1 through R-7)
5. The Respondent was specifically charged with the following violation of law in the Notice of Hearing and Statement of Charges dated March 5, 2015:
  - a. 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 collecting an annual premium from James Valentino for windstorm coverage but only remitted a portion of the premium to the MS Windstorm Underwriting Association resulting in the policy being cancelled..

#### **FINDINGS OF FACT**

1. Respondent holds Mississippi insurance producer license No. 7702639.
2. On or about December 16, 2014, MID investigator Octavius began an investigation into the Respondent's business practices. His detailed report was admitted into evidence as Exhibit S-5.
3. James Valentino filed his formal Complaint with the Mississippi Insurance Department on December 10, 2014. (Exhibit S-3)
4. During his testimony, the Respondent admitted that he had received an annual premium from James Valentino on May 27, 2014 but due to "sloppy" practices, the balance of the premium

was remitted on December 13, 2014 and received by the MWUA on December 16, 2014.

### 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. Brooks admitted to receiving an annual premium from James Valentino but only remitted a portion of that amount to the MWUA.
6. 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”.

7. The aforementioned violation 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 Respondent, Tommy B. Brooks is hereby placed on probation effective for one year from the execution of this Order.
2. Furthermore, Respondent, Tommy B. Brooks shall be fined Five Hundred Dollars (\$500.00) for the violation to be paid to the Mississippi Insurance Department within 30 days from the execution of this Order .

SO ORDERED, this the 9<sup>th</sup> day of April, 2015.

  
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MIKE CHANEY  
COMMISSIONER OF INSURANCE  
STATE OF MISSISSIPPI

Submitted by:

  
\_\_\_\_\_  
Brandon White  
HEARING OFFICER

Prepared by:

  
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Donald L. Kilgore  
Special Assistant Attorney General