

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

COMMISSIONER OF INSURANCE

PETITIONER

VS.

CAUSE NO. 09-5867

JOHN ROBERT THOMAS

RESPONDENT

ORDER

THIS CAUSE came on for hearing before the Commissioner of Insurance of the State of Mississippi, sitting in a special session in the offices of the Commissioner of Insurance of the State of Mississippi, 10th Floor, Woolfolk State Office Building, 501 North West Street, Jackson, Hinds County, Mississippi on Thursday, August 6, 2009, at 2:00 p.m. on the Notice of Hearing and Statement of Charges filed against John Robert Thomas ("Respondent"), to hear evidence concerning said complaint. Having received notice of the hearing, the Respondent appeared and gave testimony. Kimberly Causey, Special Assistant Attorney General, represented the Department, and Michael P. Younger, Esq. represented Respondent. Hearing Officer Aaron Sisk took testimony and accepted evidence in this matter. Based upon the evidence and testimony, and upon the recommendation given by the Hearing Officer, the Commissioner makes the following Findings of Fact and Conclusions of Law, to-wit:

STATEMENT OF CHARGES

That the Respondent was charged with the following violations of law in the Notice of Hearing and Statement of Charges issued August 5, 2008:

- Miss. Code Ann. Section 83-17-71(1)(b) that such insurance producer has violated

any insurance laws, or violated any regulation, subpoena or order of the commissioner;

- Miss. Code Ann. Section 83-17-71(1)(e) that such insurance producer has intentionally misrepresented the terms of an actual or proposed insurance contract or the application for insurance; and,
- Miss. Code Ann. Section 83-17-71(1)(h) that such insurance producer has used fraudulent, coercive or dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business.
- Miss. Code Ann. Section 83-17-71(1)(j) that such insurance producer has forged another's name to an application for insurance or to any document related to an insurance transaction.

NOTICE AND HEARING

I.

That on or about February 5, 2009, the Commissioner of Insurance of the State of Mississippi, or his appointee, pursuant to Miss. Code Ann. § 83-17-71 (Supp. 2008), gave the required notice to the Respondent of the Commissioner's intention to hold a hearing for the purpose of reviewing the status of Respondent's Privilege License to operate as an Insurance Producer in the State of Mississippi, and to revoke any current producer licenses the Respondent may hold.

II.

That said Notice of Hearing and Statement of Charges was sent to Respondent by certified mail, return receipt requested, in accordance with Miss. Code Ann. § 83-17-71 (Supp. 2008), at the address Respondent provided to the Licensing Division of the Mississippi Department of Insurance.

III.

That pursuant to said Notice, a hearing was scheduled before the Commissioner of Insurance of the State of Mississippi, for 2:00 p.m., on Thursday, March 19, 2009. Respondent, by and through his attorney of record, requested and received a continuance.

IV.

This matter was reset to Thursday, August 6, 2009, at 2:00 p.m. to consider the charges provided in the February 5, 2009, Notice of Hearing and the July 2, 2009, denial of the Respondent's property and casualty renewal license. The parties appeared on that date and the hearing was held.

FINDINGS OF FACT

AFTER CONSIDERING all of the evidence presented, and the Respondent's stipulation to the charges and the exhibits submitted, the Commissioner of Insurance makes the following Findings of Fact:

V.

The Respondent did, as agent/owner Thomas Insurance Agency; a division of M & F Insurance Group; a division of Merchants and Farmers Bank, issued checks to various customers of the agency for various reasons, such as "Overpayment of Account", "Credit Balance", "Return Premium", "Cancellation of Policy" or other reasons in forty-one (41) instances. Each check was then deposited by Respondent, by and through Thomas Insurance Agency, into Thomas & Associates Insurance Agency account, a separate business account operated solely by Respondent. The forty-one (41) checks total \$16,945.84.

VI.

The Respondent, as agent/owner Thomas Insurance Agency; a division of M & F Insurance

Group; a division of Merchants and Farmers Bank, in forty-three (43) instances, used part or all of a customer's payment to the agency to credit his Thomas & Associates Insurance Agency account, a separate business account operated solely by Respondent, instead of forwarding all of the payment to the company.

VII.

The Respondent, as agent/owner Thomas Insurance Agency; a division of M & F Insurance Group; a division of Merchants and Farmers Bank, in eighteen (18) instances, used part or all of a customer's payment to the agency to credit the agency account of his daughter, Leslie Thomas, an amount of \$2,099.16.

VIII.

The Respondent, as agent/owner Thomas Insurance Agency; a division of M & F Insurance Group; a division of Merchants and Farmers Bank, received a refund from a premium finance company, AMGRO, made out to one of his insureds, Gargi Sood, d/b/a Wesson Shopping. Respondent did on or about March 28, 2008, deposit said premium refund check in the amount of \$514.00 into his Thomas & Associates Insurance Agency account, a separate business account operated solely by Respondent, instead of forwarding these monies to the insured.

IX.

It was alleged that the Respondent did, as agent/owner Thomas Insurance Agency; a division of M & F Insurance Group; a division of Merchants and Farmers Bank, forge another's name to an application for insurance or to any document relating to an insurance transaction. Respondent denied this allegation although he had earlier in the hearing stipulated to the facts.

CONCLUSIONS OF LAW

IN LIGHT OF THE AFOREMENTIONED Findings of Fact, the Commissioner of Insurance finds that Respondent, John Robert Thomas, has committed the following violations:

X.

That the Respondent, John Robert Thomas, has violated the provisions of Miss. Code Ann. § 83-17-71(1)(b) and § 83-17-71(1)(h) by using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business, in the commission of the acts that have been more particularly described herein in Paragraphs V. through VIII. of this Order.

XI.

That the remaining charge, Miss. Code Ann. Section 83-17-71(1)(j) that such insurance producer has forged another's name to an application for insurance or to any document related to an insurance transaction, filed against Respondent was denied by Respondent, not fully proven by evidence or testimony and therefore are not sustained.

ORDER

IT IS, THEREFORE, ORDERED that the charges that he violated Miss. Code Ann. § 83-17-71(1)(b) and § 83-17-71(1)(h) as previously filed herein against the Respondent, John Robert Thomas, should be and the same are hereby **SUSTAINED**.

IT IS FURTHER ORDERED, the charge that he violated Miss. Code Ann. Section 83-17-71(1)(j) filed against Respondent, John Robert Thomas, shall be **DISMISSED**.


IT IS FURTHER ORDERED, that the privilege license of Respondent, John Robert Thomas, to act as an insurance producer in the State of Mississippi shall be immediately

REVOKED.

IT IS FURTHER ORDERED that an administrative penalty be issued against Respondent. Pursuant to Miss. Code Ann. Section 83-17-71(4), the Commissioner of Insurance may impose an administrative fine of not more than One Thousand Dollars (\$1,000.00) per violation. There were 102 violations proven in this matter and a penalty of One Hundred and Two Thousand Dollars (\$102,00.00) could be issued; however, the Commissioner hereby issues an administrative penalty in the amount of Ten Thousand Dollars (\$10,000.00) against the Respondent.

Should the Respondent wish to appeal the Order of the Commissioner, he may follow the procedure set forth in Miss. Code Ann. § 83-17-83 (Supp. 2008).

SO ORDERED, this the 1st day of August, 2009.



MIKE CHANEY
COMMISSIONER OF INSURANCE
STATE OF MISSISSIPPI

Report and Recommendation Submitted by:



AARON SISK
HEARING OFFICER