BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF:

ORVILLE VON REAGAN, III **DOCKET NO. 12.01-130643J**

NOTICE

ATTACHED IS AN INITIAL ORDER RENDERED BY AN ADMINISTRATIVE JUDGE WITH THE ADMINISTRATIVE PROCEDURES DIVISION.

THE INITIAL ORDER IS NOT A FINAL ORDER BUT SHALL BECOME A FINAL ORDER UNLESS:

1. THE ENROLLEE FILES A WRITTEN APPEAL, OR EITHER PARTY FILES A PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION NO LATER THAN **August 20, 2015.**

YOU MUST FILE THE APPEAL, PETITION FOR RECONSIDERATION WITH THE ADMINISTRATIVE PROCEDURES DIVISION. THE ADDRESS OF THE ADMINISTRATIVE PROCEDURES DIVISION IS:

SECRETARY OF STATE
ADMINISTRATIVE PROCEDURES DIVISION
WILLIAM R. SNODGRASS TOWER
312 ROSA PARKS AVENUE, 8th FLOOR
NASHVILLE, TENNESSEE 37243-1102

IF YOU HAVE ANY FURTHER QUESTIONS, PLEASE CALL THE ADMINISTRATIVE PROCEDURES DIVISION, **615/741-7008 OR 741-5042, FAX 615/741-4472.** PLEASE CONSULT APPENDIX A AFFIXED TO THE INITIAL ORDER FOR NOTICE OF APPEAL PROCEDURES.

THE STATE OF TENNESSEE
BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE

TENNESSEE INSURANCE DIVISION,	)	
Petitioner.	)	
	)	
vs.	)	**APD No. 12.01-130643J**
	)	**TID No. 14-183**
ORVILLE VON REAGAN, III,	)	
Respondent.	)	

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came to be heard before the Administrative Law Judge ("ALJ") Anthony Adgent, assigned by the Secretary of State, Administrative Procedures Division ("APD"), to sit for the Commissioner of the Tennessee Department of Commerce and Insurance ("Commissioner"). Stephanie M. Crenshaw, Assistant General Counsel, represented the Insurance Division of the Tennessee Department of Commerce and Insurance ("Division") in this matter. Respondent, Orville Von Reagan, III ("Reagan") did not appear, and was not represented by an attorney.

The subject of this hearing was the proposed revocation of Reagan's Tennessee Resident Insurance Producer License No. 0890739 ("License"), and a request for monetary penalties in response to Reagan's alleged violations of Tenn. Code Ann. §§ 56-6-112(a)(2) and (6) and 56-6-119(b). After consideration of the argument of counsel and the record in this matter, it is determined that Reagan's License is **REVOKED** and he is **ORDERED** to pay a Five Thousand Dollar ($5,000) civil penalty. This decision is based upon the below Findings of Fact and Conclusions of Law.

SUMMARY OF THE EVIDENCE

One (1) witness testified at the hearing on behalf of the Division: Frank Borger-Gilligan, Director of Fraud Investigations. Three (3) exhibits were entered into evidence: Exhibit 1, Collective Proof of Service; Exhibit 2, Affidavit of Kimberly Biggs; and Exhibit 3, Certified copies of criminal documents.

FINDINGS OF FACT

1. On October 6, 2014, Reagan was charged with and pled guilty to three (3) counts of felony theft in the Circuit Court for Sevier County, Tennessee. Reagan was placed on probation for four (4) years, ordered to perform fifty (50) hours of community service and ordered to pay two thousand eight hundred sixty-five dollars and seventy-one cents ($2,865.71) in restitution.

2. Reagan's convictions stem from complaints that Regan took premiums from consumers, but never bound the insurance coverage with Burns & Wilcox, Ltd. or Certain Underwriters at Lloyd's as Reagan had represented to the consumers.

3. Reagan failed to notify the Commissioner of the pending charges against him within thirty (30) days of the initial pretrial hearing date or of the order resulting from the hearing.

CONCLUSIONS OF LAW

4. Tenn. Code Ann. § 56-6-112(a) authorizes the Commissioner to place on probation, suspend, revoke, or refuse to issue or renew a license issued under Title 56, Chapter 6, Part 1 and/or levy a monetary civil penalty for:

. . . .

(2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner; [and]

....

(6) Having been convicted of a felony[.]

....

5. Tenn. Code Ann. § 56-6-119(b) states that within thirty (30) days of the initial pretrial hearing date, a producer shall report to the commissioner any criminal prosecution of the producer taken in any jurisdiction, including a copy of the initial complaint, the order resulting from the hearing, and any other relevant legal documents.

6. Tenn. Code Ann. § 56-6-112(g) provides, in pertinent part, that if after providing notice consistent with the process established by § 4-5-320(c), and providing the opportunity for a contested case hearing held in accordance with the Uniform Administrative Procedures Act, the Commissioner finds that any person required to be licensed, permitted, or authorized by the Division of Insurance has violated any statute, rule or order, the commissioner may order:

(1) The person to cease and desist from engaging in the act or practice giving rise to the violation;
(2) Payment of a monetary penalty of not more than one thousand dollars ($1,000) for each violation, but not to exceed an aggregate penalty of one hundred thousand dollars ($100,000). This subdivision (g)(2) shall not apply where a statute or rule specifically provides for other civil penalties for the violation. For purposes of this subdivision (g)(2), each day of continued violation shall constitute a separate violation; and
(3) The suspension or revocation of the person's license.

7. Tenn. Code Ann. § 56-6-112(h) provides that the Commissioner shall consider the following in determining the amount of penalty to assess:

(1) Whether the person could have reasonably 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.

8. The Division met its burden of proof by a preponderance of the evidence that Reagan committed three (3) violations of Tenn. Code Ann. § 56-6-112(a)(6) for being convicted of three (3) counts of felony theft in the Circuit Court for Sevier County, Tennessee, on October 6, 2014.

9. The Division met its burden of proof by a preponderance of the evidence that Reagan violated the law by failing to report the pending charges to the Commissioner within thirty (30) days of the initial pretrial hearing date or of the order resulting from the hearing, thereby, violating Tenn. Code Ann. §§ 56-6-112(a)(2) and 56-6-119(b).

It is therefore **ORDERED** that the resident insurance producer license number 0890739 issued to Orville Von Reagan, III, be **REVOKED** and Reagan be **ORDERED** to pay One Thousand Dollars ($1,000) for each violation stated above, for a total of Five Thousand Dollars ($5,000).

This Initial Order entered and effective this 5TH day of AUGUST 2015.

Anthony Adgent
Administrative Law Judge

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 5TH day of AUG, 2015.

J Richard Collier

J. Richard Collier, Director
Administrative Procedures Division

APPENDIX A TO INITIAL ORDER
NOTICE OF APPEAL PROCEDURES

Review of Initial Order

This Initial Order shall become a Final Order (reviewable as set forth below) fifteen (15) days after the entry date of this Initial Order, unless either or both of the following actions are taken:

(1) A party files a petition for appeal to the agency, stating the basis of the appeal, or the agency on its own motion gives written notice of its intention to review the Initial Order, within fifteen (15) days after the entry date of the Initial Order. If either of these actions occurs, there is no Final Order until review by the agency and entry of a new Final Order or adoption and entry of the Initial Order, in whole or in part, as the Final Order. A petition for appeal to the agency must be filed within the proper time period with the Administrative Procedures Division of the Office of the Secretary of State, 8th Floor, William R. Snodgrass Tower, 312 Rosa L. Parks Avenue, Nashville, Tennessee, 37243-1102. (Telephone No. (615) 741-7008). See Tennessee Code Annotated, Section (T.C.A. §) 4-5-315, on review of initial orders by the agency.

(2) A party files a petition for reconsideration of this Initial Order, stating the specific reasons why the Initial Order was in error within fifteen (15) days after the entry date of the Initial Order. This petition must be filed with the Administrative Procedures Division at the above address. A petition for reconsideration is deemed denied if no action is taken within twenty (20) days of filing. A new fifteen (15) day period for the filing of an appeal to the agency (as set forth in paragraph (1) above) 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. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Initial Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

Review of Final Order

Within fifteen (15) days after the Initial Order becomes a Final Order, a party may file a petition for reconsideration of the Final Order, in which petitioner shall state the specific reasons why the Initial Order was in error. If no action is taken within twenty (20) days of filing of the petition, it is deemed denied. See T.C.A. §4-5-317 on petitions for reconsideration.

A party may petition the agency for a stay of the Final Order within seven (7) days after the entry date of the order. See T.C.A. §4-5-316.

YOU WILL NOT RECEIVE FURTHER NOTICE OF THE INITIAL ORDER BECOMING A FINAL ORDER

A person who is aggrieved by a final decision in a contested case may seek judicial review of the Final Order by filing a petition for review in a Chancery Court having jurisdiction (generally, Davidson County Chancery Court) within sixty (60) days after the entry date of a Final Order or, if a petition for reconsideration is granted, within sixty (60) days of the entry date of the Final Order disposing of the petition. (However, the filing of a petition for reconsideration does not itself act to extend the sixty day period, if the petition is not granted.) A reviewing court also may order a stay of the Final Order upon appropriate terms. See T.C.A. §4-5-322 and §4-5-317.