TN ID- 0737234
NPN- 5942334

State of Tennessee
Department of State
Administrative Procedures Division
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Nashville, Tennessee 37243-1102
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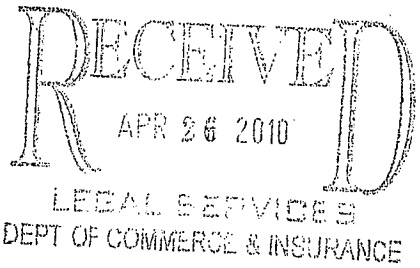

April 21, 2010

Commissioner Leslie Schecter Newman
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Murfreesboro, TN 37130

RE: In the Matter of: Michael Tansil Docket No. 12.06-105144J

Enclosed is an Initial Order rendered in connection with the above-styled case.

Administrative Procedures Division
Tennessee Department of State

/aem
Enclosure

The Department of State is an equal opportunity, equal access, affirmative action employer.

BEFORE THE COMMISSIONER OF THE TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF:

MICHAEL TANSIL DOCKET NO. 12.06-105144J

ORDER

THIS ORDER 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 **May 6, 2010.**

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 EIGHTH AVENUE NORTH, 8th FLOOR
NASHVILLE, TENNESSEE 37243-0307

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.

BEFORE THE COMMISSIONER OF THE
TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF: TENNESSEE INSURANCE DIVISION, *Petitioner,* *v.* PLASE MICHAEL TANSIL, *Respondent.*	DOCKET NO: 12.06-105144J

INITIAL ORDER

This matter was heard on March 2, 2010, by Administrative Judge Rob Wilson, assigned by the Secretary of State, Administrative Procedures Division, to sit for the Commissioner of the Tennessee Department of Commerce and Insurance in Nashville, Tennessee. Mr. Dan Birdwell, Assistant General Counsel for Insurance, Department of Commerce and Insurance, represented the Petitioner. The Respondent, Mr. Plase Michael Tansil ("Tansil"), was represented by Attorney Jerry Scott.

The Transcript from the hearing was filed on March 22, 2010, and the RECORD closed on that date.

The subject of this hearing was the proposed revocation of Tansil's insurance producer license and surplus lines agent licenses in Tennessee, and for such other, further, general, or different relief to which the Division may be entitled.

After consideration of the RECORD in this matter and the arguments presented by

counsel for the both sides, it is determined that Tansil's insurance producer license and surplus lines agent license shall be placed on **PROBATION** for a period of five years. This decision is based upon the following Findings of Fact and Conclusions of Law.

FINDINGS OF FACT

1. The Tennessee Insurance Law, TENN. CODE ANN. §§ 56-1-101 *et seq.* (the "Law"), places the responsibility of the administration of the Law on the Commissioner. The Petitioner the Tennessee Insurance Division ("TID") is the lawful agent through which the Commissioner discharges this responsibility. TENN. CODE ANN. §§ 56-1-202 & 56-6-112.

SECURITIES REGISTRATION

2. Tansil is a citizen and resident of Davidson County, Tennessee, residing at 3014 Palace Place, Murfreesboro, TN 37129. Tansil is not currently registered, as a broker-dealer, broker-dealer agent, investment advisor, or investment advisor representative with the TSD. Tansil has not been a registered agent pursuant to the Act since March of 2007. Tansil was formerly registered as a broker-dealer agent pursuant to Tenn. Code Ann. §48-2-101, et seq. from October 1, 1999 through November 16, 2001 of First Union Securities, Inc. From January 2, 2002 through August 26, 2005, Respondent was employed as a registered broker-dealer agent and investment advisor representative for GunnAllen Financial, Inc.

INSURANCE LICENSE

3. Tansil is a licensed insurance producer (License ~~# 726848)~~ 0737234; and a licensed surplus lines agent (License # 4158) in the State of Tennessee.

4. Mr. Tansil is currently working as a property and casualty, life and health insurance agent.

5. Mr. Tansil started in the Securities Industry in 1993, in Murfreesboro, Tennessee. In May of 1998 he joined Wheat First Union as a stockbroker. Mr. Tansil was terminated from Wheat First Union for reimbursing part of a customer's management fees. Mr. Tansil explained that his practice was not commission based but fee based, and at this particular customer's request Mr. Tansil reimbursed the customer $1500 in management fees.

6. After leaving Wheat First Union Mr. Tansil joined GunnAllen Financial. Two of his former Wheat First Union Customers, C.G. and J.G., a husband and wife, followed Mr. Tansil to GunnAllen. Mr. Tansil stated that C.G. and J.G. received approximately one million dollars in a lawsuit settlement and obtained the services of Mr. Tansil to invest it for them. Mr. Tansil explained that he assisted them in setting up a structured, diversified portfolio in which C.G. and J.G. were to receive income of $3000 per month. However, during the first year C.G. and J.G. withdrew $43,000 for a Corvette, $390,000 for a larger house in Murfreesboro, $60,000 for a pool, and $20,000 for a fence around the pool. In less than two years C.G. and J.G. had withdrawn $650,000 of the principal. C.G. and J.G. later accused Mr. Tansil of mis-managing their money.

7. In March or April of 2002 a local attorney began contacting Mr. Tansil's clients by letter. The letter basically stated "if you lost money in the marketplace, we can go after First Union Securities and after Mr. Tansil to get your money back."

8. The attorney filed complaints against Mr. Tansil with First Union. First Union investigated the complaints and denied all claims.

9. Counsel for the State presented evidence from NYSE and NASD. A Hearing Board Decision from the NYSE concluded that Mr. Tansil should receive a censure and a five year bar for violations of various NYSE rules. The NYSE decision also stated "We do not find that Respondent (Mr. Tansil) had a nefarious intention to cause his customers harm, but that is not the decision before us."

10. The NASD document presented into evidence was a settlement document in which NASD imposed sanctions including a permanent bar from the Securities Industry. NASD is now known as the Financial Industry Regulatory Authority (FINRA).

11. On Cross examination, the State's witness who presented the NYSE and NASD documents stated that he did not investigate the underlying allegations:

> Q: So your investigation consisted of getting some documents. Did you ever meet Mr. Tansil?
>
> A: No, sir.
>
> Q: Did you ever interview him on the phone, or anything?
>
> A: No, sir.
>
> Q: Okay. So you know nothing at all about these people or about Mr. Tansil.
>
> A: Not in any substantial way.
>
> [Transcript, page 32, lines 5-13]

12. In 2006 Mr. Tansil opened Miley and Tansil Insurance Services. To date,

Mr. Tansil has never had a complaint filed against him in the insurance business.

13. Senator Jim Tracy, Senator Bill Ketron, Lawrence E. Taylor, and Pastor Mark W. Gregory all testified that Mr. Tansil, in their opinion, was a truthful and honest man.

VIOLATIONS

The State alleges that Mr. Tansil made material misrepresentations to customers, caused or permitted books and records of his member firm employer to reflect inaccurate customer information, and made misstatements about risks of investment or strategies in violation of T.C.A. §48-2-121. Additionally, the State alleges that Mr. Tansil committed acts which were fraudulent, coercive, or dishonest, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in violation of T.C.A. §48-2-121. Finally, the State alleges that Mr. Tansil failed to report administrative action taken against him as required by T.C.A. §56-6-119.

CONCLUSIONS OF LAW

1. TENN. CODE ANN. § 48-2-112 provides that:

> The commissioner may by order deny, suspend, or revoke any registration under this part if the commissioner finds that:
>
> (1) The order is in the public interest and necessary for the protection of investors, and;
>
> (2) The applicant or registrant or, in the case of a broker-dealer or investment advisor, any affiliate, partner, officer, director, or any person occupying a similar status or performing similar functions;
>
> . . .
>
> (B) Has willfully violated or willfully failed to comply

with any provision of this part or a predecessor chapter . . ..

TENN. CODE ANN. § 48-2-112(a)(1) & (2)(B).

2. It is **CONCLUDED** that the State has failed to prove by a preponderance of the evidence that Mr. Tansil willfully committed fraudulent acts in violation of T.C.A. §48-2-121.

3. It is **CONCLUDED** that the State has proved by a preponderance of the evidence that Mr. Tansil failed to report an administrative action taken against him in violation of T.C.A. §56-6-119.

ANALYSIS

4. The state called one witness to testify in this matter, who, by his own admission, conducted an investigation which consisted solely of obtaining two documents; one from the NYSE, and one from NASD. None of the individuals who were allegedly victims of Mr. Tansil's fraudulent or deceptive actions were present. Additionally, there was no one present from the NYSE or FINRA to verify or substantiate any of the information contained in their reports. Also notably absent was the attorney who allegedly led the charge against Mr. Tansil by running an ad in a local paper searching for people who had lost money in the market.

5. Mr. Tansil readily admitted that he reimbursed part of a client's management fees. He also admitted that he was terminated from First Union Securities for doing so. There was no fraudulent or dishonest action on Mr. Tansil's part.

6. As far as deception or dishonesty to his individual investment clients, there was no testimony offered to prove that Mr. Tansil ever made a recommendation to a client to purchase or sell any security without reasonable grounds to believe that the recommendation was suitable, or that he executed a transaction for a customer without authority to do so, or that he committed any other dishonest or unethical business practices listed in the Tennessee Code.

7. Quite the contrary, Mr. Tansil's explanations of the incidents raised by the State seem to prove that although he advised his clients to the best of his ability, his clients oftentimes made their own financial decisions which contributed to their losses. Mr. Tansil didn't advise C.G. and J.G. to buy a Corvette, a house, and build a pool at the new house. A downturn in the market may have also contributed to Mr. Tansil's clients' losses.

8. The testimony, however, when considered as a whole, shows that although Mr. Tansil did make some mistakes and violate some rules, none of his mistakes or violations was committed with the intent to defraud a client or pad his own pockets. Mr. Tansil admits that his training was inadequate and that he basically only knew how to sell. Additionally, he didn't know he was required to report administrative action taken against him, resulting in a violation of T.C.A. §56-6-119.

All of Mr. Tansil's past mistakes have been in the area of selling securities. However, uncontroverted testimony established that since 2006 Mr. Tansil has been selling insurance without a single consumer complaint. Keeping this fact in mind, the obvious question is this: Have Mr. Tansil's past securities mistakes, made without

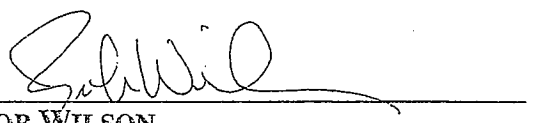
nefarious intent, been so egregious that he should now be banned from making his living selling insurance?

Counsel for the State several times asked witnesses the following question: "Should the Commissioner be concerned about unethical or dishonest conduct that an insurance producer engages in that has nothing to do with insurance? Should the Commissioner be concerned about that?" [Transcript, page 71, lines 7-11] Clearly the answer to this question cannot be "no." But revocation of Mr. Tansil's insurance producer's license, as well as the destruction of his career, for refuted allegations that were only slightly supported by another tribunal's report, is clearly not warranted in this situation. More appropriately, T.C.A. §56-6-112 states the Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license issued under this part...

Accordingly, Mr. Tansil's insurance producer's license shall be placed on probation for a period of five years from the date of this Order. If the Department finds problems with Mr. Tansil's business practices during that time, further consequences up to and including revocation of his insurance producer's license may be assessed.

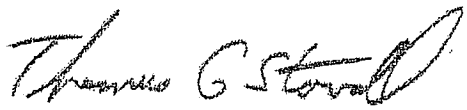
It is so ORDERED.

This INITIAL ORDER entered and effective this 21st **day of** April **2010.**



ROB WILSON
ADMINISTRATIVE JUDGE
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

Filed in the Administrative Procedures Division, Office of the Secretary of State, this 21st day of APRIL 2010.



THOMAS G. STOVALL, DIRECTOR
ADMINISTRATIVE PROCEDURES DIVISION
OFFICE OF THE SECRETARY OF STATE

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 Eighth Avenue N., Nashville, Tennessee, 37243. (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.