BEFORE THE COMMISSIONER OF THE TENNESSEE DEPARTMENT OF COMMERCE AND INSURANCE

IN THE MATTER OF:	
ROBERT PRUITT	**DOCKET NO: 12.01-084604J**

NOTICE OF DEFAULT AND INITIAL ORDER

This matter came to be heard on April 20, 2006, before Marion Wall, Administrative Judge, assigned to the Secretary of State, Administrative Procedures Division, and sitting for the Commissioner of the Tennessee Department of Commerce and Insurance in Memphis, Tennessee. Dakasha K. Winton and John F. Morris, Staff Attorneys, Department of Commerce and Insurance, represented the State. The Respondent, Robert Lee Pruitt, was not present at the hearing, nor did an attorney appear on his behalf.

ORDER OF DEFAULT

This matter was heard upon the Petitioner's Motion for Default due to a failure of the Respondent, Robert Lee Pruitt, to appear or to be represented at the hearing on April 20, 2006, after receiving proper notice thereof. The record indicates that the Respondent, Robert Lee Pruitt, was properly served under the provisions of Tenn. Code Ann. § 56-6-112. After consideration of the record, it was determined that the Petitioner's motion was proper. The Respondent, Robert Lee Pruitt, was held in **DEFAULT**, and the Petitioner was permitted to proceed with an uncontested case.

INITIAL ORDER

The subject of this hearing was the proposed revocation of the Respondent's insurance producer license in Tennessee. After consideration of the argument of counsel and the record in this matter, it is the determination of this administrative judge that the Respondent's insurance producer license should be **REVOKED** and the Respondent is ordered to pay Fifteen Thousand

Dollars ($15,000) in civil penalties. This decision is based upon the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. The Respondent, Robert Lee Pruitt (hereinafter referred to as "Respondent") is a resident of Memphis and citizen of Tennessee, with his mailing address being 182 Gaston Avenue, Memphis, Tennessee 38106. The Respondent, at all times relevant to the events herein, has held an insurance producer license; number 636005, issued by the Commissioner on November 25, 1981.

2. On or around March 27, 1996, Columbian Life Insurance Company (hereinafter referred to as "Columbian Life") appointed Respondent to sell life insurance contracts on its behalf.

3. On or around February 7, 1999, Respondent, sold Janie Pruitt (hereinafter referred to as "Pruitt") a citizen and resident of this State, a life insurance policy issued by Columbian Life.

4. Respondent collected monthly premiums from Pruitt from February 1999 through March 2004.

5. In or around March 2003, the Respondent stopped forwarding Pruitt's cash payments to Columbian Life.

6. As a result of Respondent's failure to forward the premiums, Pruitt's policy lapsed on March 7, 2003. However, Respondent continued to collect premium payments from Pruitt until March 2004.

7. On or around May 18, 1999, Respondent sold Shirley Davis (hereinafter referred to as "Davis"), a citizen and resident of this State, a life insurance policy issued by Columbian Life.

8. Respondent collected monthly premiums from Davis for the Columbian Life policy through December 2002.

9. Even though Respondent failed to forward the premiums, Davis's policy remained effective until August 2003. Under the terms of the policy, Columbian Life used the cash value of the policy to pay the premiums that were not forwarded to Columbian Life.

10. On or around March 1, 1999, Southland National Insurance Company appointed Respondent to sell life insurance contracts on its behalf.

11. In or around December 2002, Respondent informed Davis that he no longer represented Columbian National and sold Davis a new policy issued by Southland National.

12. Respondent collected monthly premiums from Davis for the Southland National policy from December 2002 through May 2005.

13. The Respondent did not forward the payments to Southland National. As a result of Respondent's failure to forward the premiums, Davis' policy with Southland National's policy lapsed for non payment on January 13, 2004.

14. On or around May 25, 2005, Respondent went to Davis' home to collect premiums for the Southland National policy. Respondent was fully aware the policy had lapsed and that he was no longer appointed by Southland National to collect premium on its behalf.

15. Respondent collected monthly premiums from Davis for the Southland National policy from December 2002 through May 2005.

16. The Respondent did not forward the payments to Southland National. As a result of Respondent's failure to forward the premiums, Davis' policy with Southland National's policy lapsed for non payment on January 13, 2004.

17. It is likely that the Respondent misappropriated premiums on other Southland National policies on at least five (5) other occasions.

18. Southland National reinstated each of the policies that were believed to have lapsed because of Respondent's actions.

CONCLUSIONS OF LAW

1. Tenn. Code Ann. § 56-6-112(a)(4) provides, that the commissioner may deny, suspend, or revoke a license under this part, or refuse to issue or renew any license under this part if she finds that one holding an insurance producer license has improperly withheld, misappropriated or converted any moneys or property received in the course of doing insurance business.

2. Tenn. Code Ann. § 56-6-116 provides, that the Commissioner may deny, suspend, or revoke a license under this part if an insurance producer misappropriates, converts, or improperly withholds monies received in the soliciting, negotiating, or selling of insurance.

3. The State has met its burden of proof by a preponderance of the evidence that the Respondent misappropriated monies by received from Pruitt, on multiple occasions, during the course of insurance business. The Respondent did not forward the received payments to Columbian Life which resulted in harmful financial loss to Pruitt and Columbian Life.

4. The State has met its burden of proof by a preponderance of the evidence that the Respondent received the payments in a fiduciary capacity and has misappropriated, converted, and improperly withheld the monies received from Pruitt.

5. The State has met its burden of proof by a preponderance of the evidence that the Respondent misappropriated and/or converted funds received from Davis, on multiple occasions, during the course of insurance business. The Respondent did not forward the received payments to Columbian Life and Southland National, which resulted in harmful financial loss to Davis, Columbian Life, and Southland National.

6. The State has met its burden of proof by a preponderance of the evidence that the Respondent received the payments in a fiduciary capacity and has misappropriated, converted, and improperly withheld the monies received from Davis.

7. The State has met its burden of proof by a preponderance of the evidence that the Respondent misappropriated monies belonging to Southland National by not forwarding money paid to Respondent on behalf of at least five (5) different policyholders. Respondent also failed to return paid premiums to Southland of at least five (5) different policyholders when the Respondent was aware the policies were cancelled.

It is therefore **ORDERED** that license number 636005, issued to Robert Lee Pruitt, be **REVOKED** and that the Respondent be ordered to pay One Thousand Dollars ($1000) for fifteen violations of Tenn. Code Ann. § 56-6-112(a)(4) and 56-6-116 for a total amount of Fifteen Thousand Dollars ($15,000). This sum represents civil penalties for some, but not all, of the occasions in which Respondent misappropriated monies. No civil penalty is assessed for the other occasions.

This Initial Order entered and effective this 28th day of April 2006.

Marion Wall
Administrative Judge

Filed in the Administrative Procedures Division, this 28th day of April 2006.

Charles C. Sullivan, II, Director
Administrative Procedures Division