

**BEFORE THE INSURANCE COMMISSIONER
OF THE STATE OF ARKANSAS**

**IN THE MATTER OF THE LICENSE
OF JAMES D. FRANKS**

A.I.D. ORDER # 2007 - 009

REVOCATION ORDER

Now on this day the above matter is taken under consideration by Lenita Blasingame, Chief Deputy Insurance Commissioner and Hearing Officer duly designated by Julie Benafield Bowman, Insurance Commissioner ("Commissioner") to preside over the above matter, with the Arkansas Insurance Department (the "Department") represented by Booth Rand, Associate Counsel, and from the facts, evidence, and testimony introduced in the hearing on this matter, held on January 26, 2007, at 1:30 P.M. at the Department, the Hearing Officer states as follows:

Findings of Fact and Conclusions of Law

1. The Commissioner has jurisdiction over the parties and subject matter pursuant to Ark. Code Ann. § 23-64-216 and Ark. Code Ann. § 23-64-512. These provisions govern the suspension and revocation of insurance producer licenses granted by the Commissioner. Specifically, under Ark. Code Ann. § 23-64-512(a)(16) and Ark. Code Ann. § 23-64-512(a)(17), the Commissioner may revoke an insurance producer's license for a producer's failure "to be examined or to produce any accounts, records or files for examination," or because of a producer's failure "to cooperate with the Commissioner in an investigation when required by the Commissioner."

2. Prior to this Order, James D. Franks (hereafter, "Respondent") of 101 SFC 340, Forrest City, Arkansas 72335, was an insurance producer licensed by the Commissioner to transact insurance business in this State. On or about January 24, 2006, Reliable Life Insurance Company ("Reliable") filed a written complaint at the Department alleging that Respondent collected premiums for Reliable but failed to remit

approximately \$3,535.08 to Reliable. On or about March 6, 2006, the complaint was forwarded to Respondent for a written response to the Department on or about March 6, 2006. On or about March 8, 2006, Respondent responded in writing to the Department denying the premium deficiency allegation of Reliable. Thereafter, the Legal Division of the Department attempted to interview Respondent regarding the complaint and notified Respondent to attend an investigative conference at the Department scheduled for July 20, 2006. Respondent did not appear but did six (6) days after the scheduled conference date request subsequent to the conference date that a new conference date be selected. At Respondent's request, the Department then rescheduled and notified Respondent to attend an investigative conference to take place on September 6, 2006 at the Department. The Respondent did not attend the September 6, 2006 investigative conference. Subsequently, on January 5, 2007, the Department issued to Respondent a "Notice Of Public Hearing," in which the Department sought to revoke or suspend Respondent's insurance producer's license for refusing to be examined by the Department related to the complaint filed against Respondent by Reliable. The hearing was scheduled at the Department for January 26, 2007, at 1:30 P.M.

3. At the hearing, exhibits and testimony was taken from Ms. Joie Tester, investigator for the Legal Division of the Department.

4. The Department exhibits and testimony were admitted into evidence without objection. The Department exhibits and testimony indicate the following matters which were admitted into the administrative record: (a) the Respondent received proper written notice of the Department's January 5, 2007 Notice of Public Hearing setting this matter for a Hearing; (b) the Respondent was not present at the Hearing despite being properly notified of the same; (c) the Respondent received proper notice to attend a July 20, 2006 investigative conference to discuss the Reliable complaint; (d) the Respondent

failed to attend the July 20, 2006 conference; (e) on or about July 26, 2006, after the date of the first scheduled conference with Respondent, the Respondent contacted the Department to reschedule the conference due to a family emergency; (f) on or about August 4, 2006, the Department rescheduled the investigative conference to take place on September 6, 2006; (g) the Respondent received proper notice to attend the September 6, 2006 investigative conference; and (h) the Respondent failed to attend the September 6, 2006 conference.

6. From the documents and testimony, the hearing officer finds that Respondent refused to attend an investigative conference to discuss the allegations made by Reliable in its complaint and further finds, more alarmingly, that Respondent refused to attend an actual hearing on his license, set for January 26, 2006 at 1:30 P.M. at the Department. The hearing officer finds and made note in the record during the hearing that Respondent's failure to attend the scheduled conference and hearing on this matter, and not the allegations made in the complaint by Reliable, is the basis for the hearing officer's recommendations to revoke Respondent's license. The Department was unable to investigate directly with Respondent the allegations made by Reliable in an investigative conference because Respondent refused to cooperate.

7. Under Ark. Code Ann. §23-64-512(a)(16), the Commissioner may suspend or revoke an insurance license for refusing to be examined or to produce any accounts, records or files for examination. In addition, under Ark. Code Ann. §23-64-512(a)(17), the Commissioner may suspend or revoke an insurance license, for an insurance producer's failure "to cooperate with the Commissioner in an investigation when required by the Commissioner."

Recommendations of the Hearing Officer

Upon consideration of the evidence of record, the Hearing Officer recommends that the foregoing Findings, Conclusions of Law, and Order be approved and adopted and that Respondent's license to sell insurance in the State of Arkansas be hereby revoked and all companies appointing Respondent as agent be notified of this Order.



Lenita Blasingame
Chief Deputy Insurance Commissioner
And Hearing Officer

Certification

I, Julie Benafield Bowman, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law and Recommendations were made by Lenita Blasingame, Chief Deputy Insurance Commissioner, by and under my authority and supervision. I hereby adopt the Hearing Officer's Findings of Fact and Conclusions of Law and Recommendations in full, as set forth herein.

IT IS SO ORDERED this 12th day of February, 2007.



JULIE BENAFIELD BOWMAN
INSURANCE COMMISSIONER
STATE OF ARKANSAS