

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

**IN THE MATTER OF
SHERRIE LYNN HERLEIN;
LICENSE NO. 60403**

A.I.D. NO. 2007- 076

EMERGENCY SUSPENSION ORDER

On this day, the matter of Sherrie Lynn Herlein (“Respondent”) came before Julie Benafield Bowman, Arkansas Insurance Commissioner (“Commissioner”). The Arkansas Insurance Department (“Department”) is represented by Associate Counsel, Amanda Capps Rose, in this matter. From the facts and law before her, the Commissioner finds as follows:

FINDINGS OF FACT

1. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Ark. Code Ann. § 23-61-103. The Commissioner has the authority to suspend an insurance producer’s license pursuant to Ark. Code Ann. §§ 23-64-216(a)(1), 23-64-512(a) and 25-15-211(c).

2. Respondent is a resident of Cherokee Village, Arkansas and is licensed as a property and casualty producer and holds Arkansas resident producer license number 60403.

3. On or about May 10, 2007, Richard C. Huff filed a complaint with the Department alleging that the Respondent stole premium funds as well as funds from co-workers during her employment at the Hardy Insurance Agency. Respondent was terminated from the Hardy Insurance Agency in February 2007 due to the alleged theft. Mr. Huff is a licensed producer and the president of the Hardy Insurance Agency.

4. With regard to the alleged theft of premium funds, the Hardy Insurance Agency used “sweep accounts” in which customer premiums were deposited. The appropriate insurance

company would then “sweep” from the account the premiums owed to it. The account would contain premium payments from more than one customer of the agency and would have extra funds, or a “cushion,” so that the account would never be in danger of being overdrawn. Rather than depositing her premium payment for her personal automobile insurance into the sweep account, the Respondent completed paperwork as though her payment had been made but allowed her personal insurance premium payment to be taken from this cushion instead. This cushion allowed the Respondent’s misconduct to continue undiscovered for several months. Mr. Huff submitted documentary evidence showing that the Respondent took steps to actively conceal her failure to deposit funds to cover her personal insurance premiums.

5. In her response to Mr. Huff’s complaint, the Respondent admitted that she and Mr. Huff agreed to cancel her personal automobile insurance retroactively to September 2006 for non-payment of premium and that she understood this would be considered total restitution. Additionally, in e-mail correspondence submitted by Mr. Huff, the Respondent admits that \$955.00 in premiums for her personal insurance policy had not been paid from September 26, 2006 through December 27, 2006. Respondent has denied the allegation that she also stole money from her co-workers.

6. On September 12, 2007 a Notice of Investigative Conference scheduled on September 27, 2007 at 10:00 a.m. was mailed to the Respondent via United States Mail and via Certified Mail to the Respondent’s last known address on file with the Department. The United States Mail was not returned; however, the Certified Mail was returned because it was not claimed by the Respondent.

7. Respondent failed to appear at the Investigative Conference scheduled for September 27, 2007. Respondent’s husband confirmed via telephone on September 28, 2007

that the Notice of Investigative Conference was mailed to the correct address. Respondent's husband also verified the Respondent's home telephone number.

8. Respondent has failed and refused to respond to the Department's written correspondence or telephone messages. Accordingly, the Department has been unable to obtain additional information or explanation regarding the allegations against the Respondent. Following initial attempts to contact the Respondent by phone, the telephone at the Respondent's residence was apparently reprogrammed. Beginning on September 28, 2007 and continuing through the date of this Order, the Respondent's residence telephone will not accept calls from the Department and a recorded message states that "the party you are calling is currently not accepting calls." Calls to the Respondent from numbers other than those associated with the Department are successful and an answering machine is reached. However, the calls are not returned.

9. Due to the criminal allegations against the Respondent and her failure to fully respond to those allegations or cooperate with the Department's attempts to investigate this matter, the public safety and welfare require emergency action pursuant to Ark. Code Ann. § 23-64-216(e).

CONCLUSIONS OF LAW

From the Findings of Fact contained herein, the Commissioner concludes as follows:

10. Respondent lacks the trustworthiness, financial responsibility, and personal and business reputation required of a licensee pursuant to Ark. Code Ann. § 23-64-506, which are grounds for suspension of the Respondent's license pursuant to Ark. Code Ann. §§ 23-64-216(a)(1) and 23-64-512(a)(8).

11. Respondent's conversion of agency funds to pay her personal automobile insurance premiums is grounds for suspension of the Respondent's license pursuant to Ark. Code Ann. §§ 23-64-216(a)(1), 23-64-512(a)(4) and 23-64-512(a)(8).

12. Respondent's failure to appear at the September 27, 2007 Investigative Conference and her failure to assist this Department with its investigation into Mr. Huff's complaint are grounds for suspension of the Respondent's license pursuant to Ark. Code Ann. §§ 23-64-216(a)(1), 23-64-512(a)(16) and 23-64-512(a)(17).

13. For the protection of the people of this State, the Commissioner concludes that the Respondent's producer license should be and hereby is immediately suspended pending an administrative hearing.

14. The Department shall notify the Respondent's appointing insurance companies of this action pursuant to Ark. Code Ann. § 23-64-217(a).

15. An administrative hearing has been scheduled for January 3, 2008 pursuant to Ark. Code Ann. § 23-64-216(e) and notice of same will be provided to the Respondent simultaneously with this Emergency Suspension Order.

IT IS SO ORDERED this 14th day of December, 2007.


JULIE BENAFIELD BOWMAN
INSURANCE COMMISSIONER
STATE OF ARKANSAS