

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

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

**A.I.D. NO. 2008- 0 0 9**

**CONSENT 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. The Respondent neither admits nor denies any of the Findings of Fact or the Conclusions of Law contained herein. 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.
2. On December 14, 2007, the Commissioner entered an Emergency Suspension Order, A.I.D. Order No. 2007-076, suspending the Respondent’s resident producer license number 60403. The emergency suspension was imperative for the public health, safety, and welfare for the reasons stated therein. Respondent has knowingly and voluntarily waived the right to a hearing on this summary suspension as provided in Ark. Code Ann. § 23-64-216(e).
3. Respondent is a resident of Cherokee Village, Arkansas and, prior to December 14, 2007, was licensed as a property and casualty producer and held Arkansas resident producer license number 60403.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. Respondent has been made aware of her right to legal counsel and has knowingly and voluntarily waived that right.

#### **CONCLUSIONS OF LAW**

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

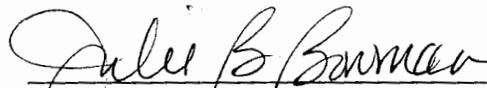
11. Respondent lacks the trustworthiness, financial responsibility, and personal and business reputation required of a licensee pursuant to Ark. Code Ann. § 23-64-506, which are grounds for suspension of the Respondent's license pursuant to Ark. Code Ann. §§ 23-64-216(a)(1) and 23-64-512(a)(8).

12. 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).

13. 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).

14. In consideration of the Commissioner's Conclusions of Law, the Respondent knowingly and voluntarily surrenders her producer license number 60403 for immediate revocation by the Department.

IT IS SO ORDERED this 24th day of January, 2008.

  
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JULIE BENAFIELD BOWMAN  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS

  
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SHERRIE LYNN HERLEIN  
RESPONDENT