

BEFORE THE INSURANCE COMMISSIONER  
FOR THE STATE OF ARKANSAS

IN THE MATTER OF  
JOANN FISHER  
LICENSE NO. 76218

A.I.D. NO. 2008- 018

REVOCATION ORDER

A hearing regarding the producer application of Joann Fisher ("Respondent") was held on March 4, 2008, in the hearing room of the Arkansas Insurance Department ("Department") in accordance with the provisions of the Arkansas Administrative Procedures Act and pertinent provisions of the Arkansas Insurance Code. Jay Morgan, General Counsel and Deputy Insurance Commissioner, acted as the Hearing Officer pursuant to his designation as such by Julie Benafield Bowman, Insurance Commissioner, pursuant to Ark. Code Ann. § 23-61-103(e), § 23-61-104(a) and the Administrative Procedure Act, Ark. Code Ann. §§ 25-15-201, *et seq.* The Department was represented by Zane A. Chrisman, Associate Counsel. Respondent did not appear. Based on the facts and law, the Hearing Officer finds as follows:

FINDINGS OF FACT

1. The Commissioner has jurisdiction over the parties and subject matter pursuant to Ark. Code Ann. §23-61-103 and the authority to issue summary license suspensions and/or order payment of penalties under Ark. Code Ann. §§ 23-60-108, 23-64-216(e), 23-64-512(a), and 23-66-408.
2. Respondent is licensed as a resident life and accident and health agent and holds Arkansas resident producer license #76218. Respondent held an appointment with AIG Annuity Insurance Company and with American General Life & Accident Insurance Company. Both companies are members of the American International Group, Inc. ("AIG").
3. On or about December 11, 2006, Respondent received \$42.96 from Betty Marcus for AIG policy numbers 126064667 and 871300861. This amount was not remitted to the insurance company.

4. On or about December 11, 2006, Respondent received \$48.61 from Willie Parker for AIG policy numbers 123225011, 123940524, and 125059871. This amount was not remitted to the insurance company.

5. On or about December 11, 2006, Respondent received \$26.66 from Luella Tobar for AIG policy numbers 122084210, 123020832, and 123192189. This amount was not remitted to the insurance company.

6. On or about December 11, 2006, Respondent received \$49.50 from Roberta Winston for AIG policy number 201749116. This amount was not remitted to the insurance company.

7. On or about December 11, 2006, Respondent received \$51.52 from Florida Lynch for AIG policy numbers 120621940, 888607180, and 888607180. This amount was not remitted to the insurance company.

8. On or about December 11, 2006, Respondent received \$34.27 from Patricia and Doreal Mills for AIG policy numbers 120154682 and 198134710. This amount was not remitted to the insurance company.

9. On or about December 11, 2006, Respondent received \$35.97 from Elliot Mills for AIG policy number 198106429. This amount was not remitted to the insurance company.

10. On or about December 11, 2006, Respondent received \$112.34 from Louise Crawford for AIG policy numbers 126913143, 191299531, 195062115, 202642418, and 201746071. This amount was not remitted to the insurance company.

11. On or about December 11, 2006, Respondent received \$17.90 from Marsha Mills for AIG policy number 201087166. This amount was not remitted to the insurance company.

12. On or about December 11, 2006, Respondent received \$30.11 from Lillie Brown for AIG policy number 123959404. This amount was not remitted to the insurance company.

13. On or about December 11, 2006, Respondent received \$17.78 from Fred Brown for AIG policy numbers 122522736 and 126986290. This amount was not remitted to the insurance company.

14. On or about December 11, 2006, Respondent received \$72.17 from Georgia Lynch for AIG policy numbers 123169973, 123226121, 199613555, and 201232446. This amount was not remitted to the insurance company.

15. Respondent later left employment with AIG. During a routine audit, AIG uncovered the deposits that were not remitted to it and determined that there was a deficiency in Respondent's accounts of \$3,476.54. AIG also notified the Department.

16. The Department requested a statement from Respondent on August 22, 2007 and September 26, 2007. Respondent never responded to the requests.

17. An investigative conference was scheduled to be held on January 10, 2008, for Respondent to attend and address the deficiencies. Respondent did not appear.

18. An Emergency Suspension Order was issued against Respondent on January 10, 2008. A hearing date of March 4, 2008, was set to address the revocation of Respondent's license.

19. On March 4, 2008, a hearing was held to adjudicate the above facts. Respondent did not appear.

20. Joie Tester, Arkansas Insurance Department Investigator, testified that she had tried to contact Respondent by phone and by letter at all numbers and addresses that were on file with the Arkansas Insurance Department. Further, Ms. Tester testified that she had run an internet search and tried to contact Respondent through the different contacts that she found listed on the internet. Respondent also did not respond to any of these requests.

### VIOLATIONS

Respondent is in violation of:

21. Ark. Code Ann. §23-64-216(a) (1) which provides that a license may be suspended or revoked for violation of any of the causes listed in Ark. Code Ann. § 23-64-512;

22. Ark. Code Ann. § 23-64-512(a)(2) which provides that a license may be suspended or revoked for violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance commissioner;

23. Ark. Code Ann. § 23-64-512(a)(7) which provides that a license may be suspended or revoked for having admitted or been found to have committed any insurance unfair trade practice or fraud;

24. Ark. Code Ann. § 23-64-512(a) (8), which provides that a license may be suspended or revoked for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

25. Ark. Code Ann. § 23-64-512(a) (13), which provides that a license may be suspended or revoked for failing to provide a written response after receipt of a written inquiry from the commissioner or his or her representative as to transactions under the license within thirty (30) days after receipt thereof unless the timely written response is knowingly waived in writing by the commissioner;

26. Ark. Code Ann. § 23-66-501, which provides that it is a fraudulent insurance practice to embezzle, abstract, purloin, or convert moneys, funds, premiums, credits, or other property of an insurer, reinsurer, or person engaged in the business of insurance;

27. Ark. Code Ann. § 23-66-405(2), which provides that all premiums collected must be remitted to the insurer within ten (10) days of receipt from the premium payor or policyholder;

28. Ark. Code Ann. § 23-66-406, which provides an agent may not retain premium for her own personal use; and

29. Ark. Code Ann. §23-64-223, which provides that an agent who collects money in her capacity as a licensee will act in a fiduciary capacity and remit the money to the person entitled thereto.

#### CONCLUSIONS OF LAW

Based upon the above and foregoing Findings of Fact and the evidence before him, the Hearing Officer concludes as follows:

30. The Hearing Officer has the authority to render a decision in this matter pursuant to the Administrative Procedure Act, Ark. Code Ann. §§ 25-15-201, *et seq.* and the delegation of authority from the Commissioner.

31. Based on the allegations contained herein, Respondent is in violation of Ark. Code Ann. § 23-64-216, § 23-64-512, § 23-66-501, § 23-66-405, § 23-66-406, and § 23-64-223.

THEREFORE, it is hereby ORDERED AND AGREED that: All licenses issued by the Department to JoAnn Fisher are revoked.

IT IS SO ORDERED this 6<sup>th</sup> day of March, 2008.

  
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JAY MORGAN  
HEARING OFFICER,  
DEPUTY INSURANCE COMMISSIONER,  
AND GENERAL COUNSEL  
STATE OF ARKANSAS