

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

**IN THE MATTER OF
AMY LYNN FORBS, LICENSE NO. 266110
and
HOMECLOSERS OF NORTHEAST ARKANSAS, INC.,
LICENSE NO. 325436**

A.I.D. NO. 2008-065A

REVOCATION ORDER

On October 30, 2008, a hearing was held at the Arkansas Insurance Department ("Department") before Julie Benafield Bowman, Arkansas Insurance Commissioner ("Commissioner") and Hearing Officer, over the matter regarding the Emergency License Suspension of Amy Lynn Forbs, ("Respondent") and HomeClosers of Northeast Arkansas, Inc. ("Agency"). The Department was represented by Nina Samuel Carter, Associate Counsel. From the facts, evidence, and law before the Commissioner, it is found 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 revoke producer licenses under Ark. Code Ann. § 23-64-216(e), § 23-64-512(a), and § 23-103-416(a)(2).
2. Respondent is currently licensed in Arkansas as a resident title insurance producer. Respondent previously held a title insurance agent license under the Arkansas Title Insurance Agents' Licensing Board. Respondent now holds Arkansas resident producer license number 266110 and has been licensed with the Department since January of 2008. She is the sole owner and operator of HomeClosers of Northeast Arkansas, Inc., an Arkansas resident title insurance agency, license number

325436. The Agency has been licensed with the Department since January 17, 2008. Respondent's address of record at the Department is P.O. Box 312, Rector, AR 72461.

3. Respondent was terminated by Stewart Title Guaranty Company ("Stewart Title") because Stewart alleges that Respondent failed to remit premium money.

4. According to information provided by Stewart Title, Respondent had failed to submit policy reports and was over 90 days in arrears on premium payments owed to Stewart Title. Respondent admitted to Stewart Title that she could not immediately remit the premium moneys due.

5. Stewart Title conducted an Audit of the Agency in September 2008 and determined that Respondent failed to remit to an amount in excess of \$22,000.00 in premium moneys collected in violation of Stewart Title's policy on premium funds remittance. As part of the Audit and due to the resulting agency cancellation agreement, Stewart Title removed all of its policies issued by Respondent and maintained by the Agency.

6. An investigation by the Department confirmed that Respondent was aware of premiums owed. Respondent also confirmed that she could not immediately make the overdue payments.

7. On September 19, 2008, the Department entered an Emergency Suspension Order against Respondent based on the following violations of the Insurance Code for: Improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business, in violation of Ark. Code Ann. § 23-64-512(a)(4); Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, lack of good personal or business

reputation or financial irresponsibility, in violation of Ark. Code Ann. § 23-64-512(a)(8); and Failing to pay premiums to the insurer, in breach of her fiduciary duty as a licensee to treat these moneys as trust funds, in violation of Ark. Code Ann. § 23-64-223.

8. Respondent testified at the Emergency License Suspension hearing that she failed to treat these moneys as trust funds in breach of her fiduciary duty resulting in not turning over premiums to Stewart Title and, if given enough time, has every intention of making restitution.

9. A representative of Stewart Title testified at the Emergency License Suspension hearing that the total sum owed by Respondent is \$38,897.64.

10. Since the date of the hearing, Respondent has tendered a payment of \$5,000 to Stewart Title through the Department, which reduces the total sum owed, to \$33,897.64.

11. The Arkansas Producer Licensing Model Act, codified at Ark. Code Ann. § 23-64-506(e)(1), requires that in order to obtain or renew an insurance producer's license, a resident producer must be deemed by the Commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation. In order to remain licensed, those qualifications must continue. In light of the foregoing findings of fact and the admitted evidence that Respondent breached her fiduciary duty by improperly holding premium money that was owed to Stewart Title, Respondent does not meet the statutory prerequisites.

CONCLUSIONS OF LAW

1. The testimony and supporting documentation entered into evidence at the hearing is sufficient to make a finding that the Respondent cannot be deemed

“competent, trustworthy, and financially responsible, and of good personal and business reputation” to engage in the sale of insurance products as required by the Insurance Code, and no longer meets the qualifications for licensure by the Department.

2. Respondent improperly withheld, misappropriated, or converted moneys or properties received in the course of doing insurance business, which is a basis for license revocation under Ark. Code Ann. § 23-64-512(a)(4).

3. Respondent failed to pay premiums to the insurer, in breach of her fiduciary duty as a licensee to treat these moneys as trust funds, in violation of Ark. Code Ann. § 23-64-223

4. Pursuant to Ark. Code Ann. § 23-64-512 and § 23-103-416, the Commissioner is authorized to revoke Respondent’s license because she no longer meets the qualifications required for a license as described above.

5. That pursuant to Ark. Code Ann. § 23-64-216(d)(3), the Commissioner may also order restitution of actual losses to affected persons. As established by testimony at the hearing and information gathered in the course of the subject investigation, Respondent currently owes a sum of \$33,897.64 to Stewart Title and is hereby ordered to pay restitution accordingly.

IT IS THEREFORE ORDERED AND ADJUDGED that:

A. The Department has met its burden of proof with respect to revoking any and all of Respondent’s resident insurance producer licenses.

B. The Department’s Emergency License Suspension Order No. 2008-065 is upheld and that any and all licenses issued by the Department to Respondent Amy

Lynn Forbs and her Agency HomeClosers of Northeast Arkansas, Inc., are hereby revoked on the grounds stated above.

C. Pursuant to Ark. Code Ann. § 23-64-218(a)(1) and (2), Respondent shall immediately forward to the Commissioner all title insurance agent licenses and title agency licenses issued to Respondent by the Department.

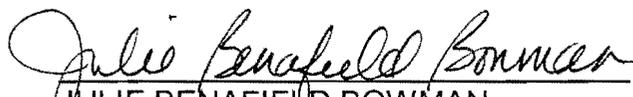
D. Pursuant to Ark. Code Ann. § 23-64-216, Respondent shall also pay restitution of \$33,897.64 to Stewart Title and provide the Commissioner with evidence that restitution was made. The restitution shall be paid within 18 months from entry of this order.

E. In accordance with Ark. Code Ann. § 23-61-110, the Commissioner may institute a suit or other legal proceeding in the courts of this state to enforce payment if Respondent fails to timely make restitution.

F. All companies appointing Respondent as agent shall be notified of this Order.

G. The Commissioner will not consider re-licensure until the expiration of three (3) years from the date of this Order, and thereafter not until Respondent has paid all administrative penalties or restitution in accordance with the provisions under Ark. Code Ann. § 23-64-217(b).

IT IS SO ORDERED THIS 20th day of November, 2008.


JULIE BENAFIELD BOWMAN
INSURANCE COMMISSIONER
STATE OF ARKANSAS