

BEFORE THE INSURANCE COMMISSIONER  
FOR THE STATE OF ARKANSAS

IN THE MATTER OF  
TAMMIE LAROSE FULLER  
LICENSE NO. 254192

A.I.D. NO. 2009-033A

REVOCATION ORDER

On May 12, 2009, a hearing was held at the Arkansas Insurance Department ("Department") before Lenita Blasingame, Chief Deputy Commissioner and Hearing Officer duly designated by Jay Bradford, Arkansas Insurance Commissioner, over the matter regarding the Emergency License Suspension Order issued to Tammie Larose Fuller ("Respondent"). The Arkansas Insurance Department ("Department") was represented by Nina Samuel Carter, Associate Counsel. From the facts, evidence, and law before the Commissioner, it is found as follows:

1. The Commissioner has jurisdiction over the parties and subject matter pursuant to Ark. Code Ann. §23-61-103 and the authority to issue emergency license suspensions and/or order payment of penalties under Ark. Code Ann. § 23-64-216(e), § 23-64-512(a), and § 23-66-408.

2. Respondent is currently licensed in Arkansas as a resident life, casualty, property, surety, and marine insurance producer. Respondent holds Arkansas resident producer license number 254192 and has been licensed since April of 2003. Respondent's address of record at the Department is 1970 Rich Smith Lane, Apt. C4, Conway, AR 72032.

3. According to a complaint received by the Department, on or about June 13, 2007, Respondent worked at Complainant's On The Go Insurance agency in Little Rock, Arkansas until they decided to open a branch office of On The Go Insurance ("On The GO") in Conway, Arkansas. Although Respondent worked under Complainant's name and tax I.D. as a sub-agent, she was the only person working in the Conway On The Go office and she was responsible for her own overhead, clients, commissions, and bank account.

4. Complainant alleged that consumers or policyholders would occasionally call Complainant at the Little Rock On the Go office for service on their policy or to make premium payments because Respondent's Conway office was at times closed during normal business hours.

5. Respondent opened a bank account for the Conway On the Go Office using Complainant's tax I.D. allegedly without Complainant's knowledge or permission. This bank account was a "sweep account" which allows agents to upload payments received by consumers and alerts the insurance company that a payment has been received. Subsequently, the company sweeps the bank account for the premium payment(s). In addition to premiums, Respondent also used this bank account to deposit her commission money.

6. Around February 2007, Complainant began receiving bank alerts that Respondent's bank account was overdrawn. As Complainant's tax I.D. was on the bank account, she became liable for the deficiencies and Complainant had to deposit money into Respondent's bank account to cure the deficiencies. On April 24, 2007, the bank notified Complainant that the bank account would be closed due to extended periods of

deficiencies and more sweeps were being made on the bank account than deposits made and the bank required Complainant to bring the bank account current. On April 25, 2007, Complainant paid a total of \$1122.24 to bring the bank account current so the bank could close the bank account.

7. Complainant called Respondent on April 25, 2007, to inform her that the bank account was closed and Respondent should cease all activities and transactions for On the Go because she no longer had a sweep account. On April 27, 2007, a letter was mailed to all Conway branch On the Go clients informing them that the office would be closed and directing payment inquiries to the corporate office of their insurer listed on the individual policies.

8. It is alleged that Respondent continued to take premium payments and conduct business after receiving instructions to cease business for On the Go.

9. On April 30 and May 2, 2007, Vision Insurance Group received uploads on their computer system of premium payments for \$332.90 posted for consumers' policies under Respondent's agency code. When Vision Insurance Group subsequently tried to sweep Respondent's bank account for the premium payment, they discovered the bank account was closed. Vision Insurance Group demanded payment from Complainant.

10. An investigation by the Department revealed that Respondent was using the agency bank account to pay personal bills. Review of bank statements appear to show more personal bills were paid than commissions deposited. Thus, it appears that Respondent was using premium money for personal bills.

11. Respondent attended an investigative conference at the Department on February 10, 2009, wherein she was sworn in and all statements were made under

oath. When asked about bank account deficiencies, Respondent admitted that she did not deposit premiums into the bank account in a timely manner. Respondent was asked about personal checks, debits, and withdrawals on the bank account and responded that she did not have checks or a debit card for the bank account. Respondent was specifically asked whether she wrote any checks for cash and again responded that she did not have any checks and only made deposits into the bank account. Review of bank statements and cancelled checks show that checks were written out of that bank account for cash, personal credit payments, office rent, etc. and were signed by Respondent. The bank statements tied to the bank account also show that Respondent frequently made ATM withdrawals and used a Visa debit card for gas, groceries, fast food, cell phone bills, etc.

12. On April 2, 2009, 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); Failing to cooperate in an investigation, in violation of Ark. Code Ann. § 23-64-512(a)(17); 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; and Failing to provide reasonable and professional service to each insured or prospective insured, in violation of Ark. Code Ann. § 23-66-307(a)(1);

13. Respondent testified at the Emergency License Suspension hearing that she had not always remitted premium money in a timely manner, that she did not keep up with bank statements to ensure adequate funds for bank account sweeps of premium money, and that she may have received bank alerts of insufficient funds but did not open notices received from the bank.

14. 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 handling premium money, Respondent does not meet the statutory prerequisites and qualifications to hold an insurance producer license in the state of Arkansas.

### **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, the Commissioner is authorized to revoke Respondent's license because she no longer meets the qualifications required for a license as described above.

**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. 2009-033 is upheld and that any and all licenses issued by the Department to Respondent Tammie Larose Fuller 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 insurance agent licenses issued to Respondent by the Department.

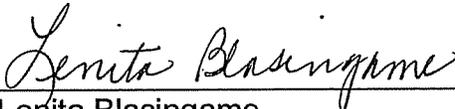
D. All companies appointing Respondent as agent shall be notified of this Order.

E. The Commissioner will not consider re-licensure until the expiration of three (3) years from the date of this Order in accordance with the provisions under Ark. Code Ann. § 23-64-217(b).

**RECOMMENDATION OF HEARING OFFICER**

Upon consideration of the evidence of record, the Hearing Officer recommends that the foregoing Findings and Conclusions of Law be approved and

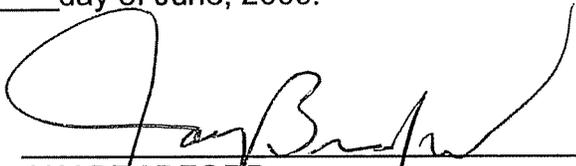
adopted and that the revocation of all insurance producer licenses for Respondent Tammie Larose Fuller is hereby upheld.

  
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Lenita Blasingame  
Chief Deputy Commissioner and  
Hearing Officer

**CERTIFICATION**

I, Jay Bradford, Insurance Commissioner for the State of Arkansas, do hereby certify that the above and foregoing matter was conducted by Lenita Blasingame, Chief Deputy Commissioner and Hearing Officer, by and under my authority and supervision. I hereby adopt the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommendation in full, as set forth herein.

IT IS SO ORDERED THIS 9<sup>th</sup> day of June, 2009.

  
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JAY BRADFORD  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS