

BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS

IN THE MATTER OF
RICKEY LYNNE WARREN
LICENSE NO. 256916

A.I.D. NO. 2009- 056

REVOCATION ORDER

A hearing regarding the producer application of Rickey Lynn Warren ("Respondent") was held on May 18, 2009, 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. Lenita Blasingame, Chief Deputy Insurance Commissioner, acted as the Hearing Officer pursuant to her designation as such by Jay Bradford, 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 party 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 holds an expired Arkansas resident producer license #256916 for the lines of property, casualty, surety, marine, life, variable products, accident, health and sickness. Respondent's address is 20451 Lakeshore Cove, Hensley, Arkansas 72065. Respondent's date of birth is August 11, 1964. Respondent does not hold any appointments.

3. On February 13, 2008, Respondent sold a general liability and a workers compensation and employers' liability policy to Andres Gayton that was to have the term dates of February 13, 2008 to February 13, 2009. This was paid for with two checks: Check No. 2543 on February 1, 2008, for \$725.00, and Check No. 2522 on January 23, 2008, for \$1,400.00. Mr. Gayton was given a "Certificate of Liability Insurance" from Commerce and Industry Insurance Company that stated the general liability policy carried Policy No. 6303AC289655. It also reflected the workers compensation policy carried Policy No. 29666580.

4. When Mr. Gayton received his policy, it stated the term dates were for January 24, 2007 to January 24, 2008. Mr. Gayton attempted to contact Respondent, but Respondent had closed his office.

5. It was later determined that the policy number given for the general liability policy was not a Commerce and Industry Company policy number and that the money had not been received by the insurance company.

6. The Arkansas Insurance Department requested information from Respondent several times. However, Respondent's only reply was that he was getting in touch with Mr. Gayton to resolve the matter. As of May 18, 2009, Respondent still has not contacted Mr. Gayton. Respondent also did not answer the questions presented him by the Department or appear at the Investigative Conference scheduled to discuss the matter on December 18, 2008.

7. A warrant for arrest has been issued on the above facts based upon an affidavit sworn to by Criminal Insurance Division Investigator Curtis Briggs.

8. Mr. Gayton has not been refunded his premium or received an insurance policy despite his payment for such to Respondent.

VIOLATIONS

Respondent is in violation of:

9. Ark. Code Ann. §23-64-216(a) (1) which provides that a license may be revoked for violation of any of the causes listed in Ark. Code Ann. § 23-64-512;
10. Ark. Code Ann. § 23-64-512(a)(2) which provides that a license may be revoked for violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's insurance commissioner;
11. Ark. Code Ann. § 23-64-512 (a)(4) which provides that a license may be revoked for improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business;
12. Ark. Code Ann. § 23-64-512 (a)(7) which provides that a license may be revoked for having been found to have committed any insurance unfair trade practice or fraud;
13. Ark. Code Ann. § 23-64-512(a) (8), which provides that a license may be 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;
14. Ark. Code Ann. § 23-64-512(a) (13), which provides that a license may be 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;
15. 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;

16. 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;

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

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

19. Ark. Code Ann. § 23-64-506(e) (1) & (2), which provide that a resident applicant or producer must be deemed by the commissioner to be competent, trustworthy, financially responsible, and of good personal and business reputation, and that such qualifications must continue for an individual to remain licensed.

20. Ark. Code Ann. § 23-65-101, which provides that no person shall act as a producer for or otherwise represent or aid any insurer or any other person or entity in the solicitation, negotiation, or effectuation of insurance, collection of premiums, or in any other manner in the transaction of insurance if that person or entity is not authorized or licensed by the State Insurance Department for those purposes.

CONCLUSIONS OF LAW

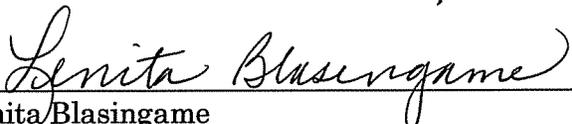
Based upon the above and foregoing Findings of Fact and the evidence before her, the Hearing Officer concludes as follows:

21. 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.

22. The testimony and supporting documentation entered into evidence at the hearing is sufficient to make a finding that the Respondent is in violation of Ark. Code Ann. § 23-64-216, § 23-64-512(a)(2), § 23-64-512(a)(4), § 23-64-512(a)(7), § 23-64-512(a)(8), § 23-64-512(a)(13), § 23-66-501, § 23-66-405, § 23-66-406, § 23-64-223, § 23-65-101, and §23-64-506(e)(1) & (2).

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 Respondent be ordered to make restitution to Mr. Andres Gayton in the amount of \$2,125.00. The Hearing Officer further recommends that Respondent be assessed a penalty in the amount of \$5,000.00 per violation or a total of \$55,000.00.

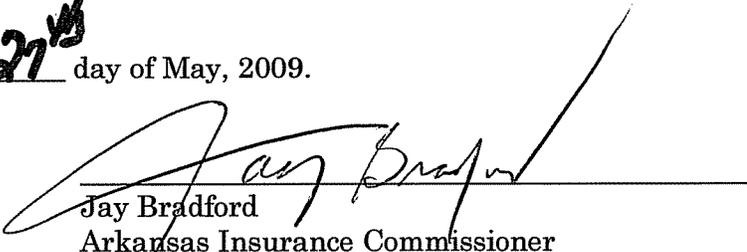


 Lenita Blasingame
 Chief Deputy Commissioner and Hearing Officer

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 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 27th day of May, 2009.



 Jay Bradford
 Arkansas Insurance Commissioner