

BEFORE THE INSURANCE COMMISSIONER

FOR THE STATE OF ARKANSAS

**IN THE MATTER OF
MACKEY INSURANCE AGENCY # 251218
JAMES MACKEY # 28499
ELEN MACKEY #160487**

A.I.D. No. 2009- 063

CONSENT ORDER

On this day Jay Bradford, Arkansas Insurance Commissioner (“Commissioner”), and the Mackey Insurance Agency, James Mackey and Elen Mackey (“Respondents”), reached an agreement concerning the resident insurance producer’s licenses issued to Respondents by the Arkansas Insurance Department (“Department”). The Commissioner was represented by Robert Alexander, Associate Counsel. The Respondents voluntarily and intelligently waived their right to a hearing and consented to the entry of this Consent Order. The parties agreed as follows:

FINDINGS OF FACT

1. Respondents James Mackey and Elen Mackey hold resident Arkansas insurance producer licenses granted by the Insurance Commissioner for the State of Arkansas. James and Elen Mackey are producers for the Mackey Insurance Agency.
2. Respondent Mackey Insurance Agency is a licensed insurance agency in the State of Arkansas. James Mackey and Elen Mackey are agents for the Mackey Insurance Agency.
3. On or about December 5, 2005, Ms. Cynthia Eyiuche contacted the Mackey Insurance Agency for a quote on her business insurance. Ms. Eyiuche’s conversations were with Mae Curry an employee of the Mackey Insurance Agency. Ms. Curry took the information, discussed her prior coverage, her insurance needs and informed Ms. Eyiuche of the cost of the coverage. Only after the policy was issued did agent Elen Mackey contact Ms. Eyiuche.

4. On or about December 5, 2005, Ms. Eyiuche delivered a check in the amount of \$1897.20, the amount quoted by Ms. Curry.
5. On or about December 7, 2005, an application for insurance was submitted to M.J. Kelly for the business insurance for Ms. Eyiuche's business JAH Blessed Accessories. James Mackey signed the application as the producer and Eleen Mackey signed Ms. Eyiuche's name on the application.
6. On or about December 7, 2005, a policy was issued to Ms. Eyiuche by Penn Star Insurance Company. The premium for the business insurance was \$1773.20.
7. On or about May 23, 2006, the Penn-Star policy was cancelled and a refund was sent to Ms. Eyiuche in the amount of \$814.32. The refund did not include the overpayment made to the Mackey Insurance Agency.
8. On or about July 21, 2008, the Mackey Insurance Agency refunded to Ms. Eyiuche the amount of \$124.00. This amount represented the difference between her payment to the Mackey Insurance Agency and the actual premium for the Penn-Star policy.

CONCLUSIONS OF LAW

1. That the Commissioner has jurisdiction over the parties and over the subject matter herein pursuant to Ark. Code Ann. §23-61-103.
2. That pursuant to Ark. Code Ann. §23-64-512(a), the Commissioner may place on probation, suspend, or revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with § 23-64-216 or any combination of actions.
3. Respondents have violated Ark. Code Ann. §23-64-512(a)(10) which states that "no person shall forge another's name to an application for insurance. Though Respondent Eleen Mackey actually signed Ms. Eyiuche's name to the application, the other Respondents were aware of this.

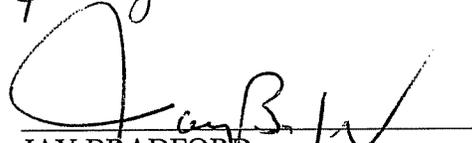
- 4. Respondents have violated Ark. Code Ann. §23-64-201(a) which prohibits an agent from allowing an unlicensed person to perform the duties and tasks reserved for a licensed insurance producer.
- 5. Respondents have violated Ark. Code Ann. §23-64-223, which provides that every licensee that receives funds will act in a fiduciary capacity and in the applicable regular course of business will account for and pay these funds or to return the funds to the insured or insurer or the person entitled thereto.
- 6. That Respondents have been made fully aware of their right to a hearing and have voluntarily and intelligently waived said right and consent to the entry of this Consent Order.

THEREFORE, in consideration of these Findings of Fact and Conclusions of Law, it is hereby ORDERED AND AGREED that:

- A. Respondents will pay a joint administrative fine of \$2500.00
- B. Each Respondent's producer license will be placed on probation for a period of one year from the date of this Order. The probation shall not affect the Respondents' ability to function pursuant to the laws governing their insurance producer licenses in the State of Arkansas.

IT IS SO ORDERED this 7th day of July, 2009.


 JAMES MACKEY


 JAY BRADFORD
 INSURANCE COMMISSIONER
 STATE OF ARKANSAS


 EILEEN MACKEY