

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

ARKANSAS INSURANCE DEPARTMENT,)
Petitioner)
)
vs.)
)
KENNETH LAVELLE CHURCH,)
Respondent)
)

A.I.D. Order No. 2010- 080

FINAL ORDER

On this day, the matter of Kenneth Lavelle Church (“Respondent”) came before Jay Bradford, Arkansas Insurance Commissioner (“Commissioner”). A hearing was held at 1:00 p.m. on September 8, 2010 in the Hearing Room of the Arkansas Insurance Department (“Department”) pursuant to the request of the Respondent, seeking a reversal of the Department’s decision to suspend the Respondent’s Arkansas Resident Producer License. The hearing was held before Chief Deputy Commissioner Lenita Blasingame (“Hearing Officer”) pursuant to her appointment by the Commissioner in accordance with Ark. Code Ann. § 23-61-103. The Department was represented by Amanda Capps Rose, Associate Counsel. Also present was Fred Stiffler, Jr., Director of the License Division. Respondent was present and represented himself.

FINDINGS OF FACT

1. The Commissioner of Insurance has jurisdiction pursuant to the Code, specifically Ark. Code Ann. §§ 23-61-101, *et seq.*
2. Respondent holds Arkansas Resident Producer License No. 209913, which is currently suspended pursuant to A.I.D. Order No. 2010-060.

3. On October 17, 2008, the Respondent was terminated by Monumental Life Insurance Company (“Monumental”) for the stated reason of mishandling company funds.

4. According to an audit subsequently conducted by Monumental, the Respondent’s account revealed a shortage of six hundred eighty-eight dollars and sixty-six cents (\$688.66) in premiums collected but not remitted to Monumental. The audit further revealed a shortage of one hundred twelve dollars (\$112.00) in unreturned company property.

5. Twelve (12) consumers paid premium funds to the Respondent that, according to the audit, were not remitted to Monumental, totaling six hundred eighty-eight dollars and sixty-six cents (\$688.66). Respondent agreed to repay of all of these twelve (12) premium payments with the exception of one (1) in the amount of one hundred nine dollars and seventy cents (\$109.70), which he disputes.

6. On January 22, 2009, Taryn Lewis, Investigator, sent information regarding the situation to the Respondent to obtain his response. Respondent failed to respond.

7. On February 25, 2009, Ms. Lewis sent a second request for a response. A response was received on April 10, 2009 stating that the Respondent intended to contact Monumental to obtain the amounts owed and would arrange for repayment.

8. On April 23, 2009, Ms. Lewis sent a request to the Respondent that he provide evidence that he had contacted Monumental as stated within fifteen (15) days. No response was received.

9. On June 3, 2009, Ms. Lewis sent a second request to the Respondent that he provide evidence that he had contacted Monumental as stated within ten (10) days. A timely response was not received.

10. Ms. Lewis received a response from the Respondent on June 26, 2009 stating that

he had an agreement to repay Monumental through a collection agency, Stuart Allen & Associates, at a rate of sixty-two dollars and fifty cents (\$62.50) per month until paid.

11. On July 14, 2009, Ms. Lewis sent a request to the Respondent for evidence of any payment made and advised that the Department needed evidence of each future payment made. No response was received.

12. A second request for evidence of payment was sent by Ms. Lewis on August 12, 2009. On August 25, 2009, the Respondent provided evidence of the agreed-upon monthly payments for April and June.

13. On September 14, 2009, Ms. Lewis sent correspondence to the Respondent requesting proof of monthly payments for July and August and stating that failure to continue payments would result in administrative action against his license. No response was received.

14. A second letter requesting proof of July and August payments and stating that failure to pay would result in administrative action against his license was sent on October 14, 2009. No response was received.

15. Due to the lack of response, a Notice of Investigative Conference, scheduled for December 30, 2009, was mailed to the Respondent on December 3, 2009.

16. On December 16, 2009, Ms. Lewis received a telephone call from the Respondent, who stated that he would provide the documentation regarding payments prior to the Investigative Conference, at which time Ms. Lewis informed him that if he would provide the documentation prior to the scheduled conference, it would be cancelled.

17. Ms. Lewis received a statement via facsimile on December 29, 2009 from the Respondent stating that he was making payments to the collection agency and had a remaining balance of three hundred fifty-eight dollars (\$358.00); however, no payments were made for

September or October. The correspondence promised evidence of future payments, and the scheduled Investigative Conference was cancelled.

18. The Department did not receive any correspondence or evidence of payment following the December 29, 2009 submission. A letter was sent to the Respondent by Ms. Lewis via certified mail on March 15, 2010 stating that if proof of payment was not received within ten (10) days, another Investigative Conference would be scheduled. The correspondence further advised the Respondent that the Department was concerned with this repeated failure to respond.

19. On April 10, 2010, Ms. Lewis received written correspondence from the Respondent stating that he would take responsibility for repayment of all of the twelve misappropriated premium payments with the exception of one in dispute. However, no proof of payments was included.

20. On or about May 19, 2010, the Department received notice from the Arkansas Office of Child Support Enforcement that the Respondent is three (3) or more months in arrearage on his child support obligation.

21. On June 9, 2010, the Respondent's producer license was summarily suspended pursuant to A.I.D. Order No. 2010-060 for the reasons stated therein.

CONCLUSIONS OF LAW

22. Respondent's misappropriation of premium funds is a violation of Ark. Code Ann. § 23-64-223(a) and is grounds for revocation pursuant to Ark. Code Ann. § 23-64-512(a)(2), (4), (8), (13), (16) and (17).

23. Respondent's failure to timely respond to the Department's requests for information during its investigation is grounds for revocation pursuant to Ark. Code Ann. § 23-64-512(a)(13), (16) and (17).

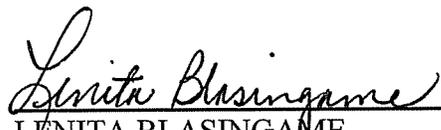
24. Respondent's failure to comply with a court order imposing a child support obligation is grounds for revocation pursuant to Ark. Code Ann. § 23-64-512(a)(14).

25. Pursuant to Ark. Code Ann. § 23-64-216(d)(1), the Respondent is subject to an administrative penalty of one thousand dollars (\$1,000.00) for each act justifying revocation of his license

ORDER

It is therefore the decision of this Department to REVOKE the Arkansas Resident Producer License of Kenneth Lavelle Church, No. 209913. It is further ordered that Kenneth Lavelle Church shall pay an administrative penalty in the amount of three thousand dollars (\$3,000.00) to the Arkansas Insurance Department, which may be paid in installments but must be received in full no later than one (1) year from the date of this Final Order.

IT IS SO ORDERED THIS 21st DAY OF SEPTEMBER, 2010.



LENITA BLASINGAME
CHIEF DEPUTY COMMISSIONER
STATE OF ARKANSAS