

BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS

ARKANSAS INSURANCE DEPARTMENT)
PETITIONER)

vs.)

SAMUEL BOWRON PHILLIPS)
RESPONDENT NPN 7472368)

A.I.D. NO. 2016- 015

LICENSE REVOCATION ORDER

On this day, the matter of the producer's license of Samuel Bowron Phillips ("Respondent") came before Allen Kerr, Arkansas Insurance Commissioner ("Commissioner"). A hearing was held on January 26, 2016, in the First Floor Hearing Room of the Arkansas Insurance Department ("Department") pursuant to the Notice of Hearing dated December 8, 2015. The hearing was held before Chief Deputy Commissioner Russ Galbraith ("Hearing Officer") pursuant to his appointment by the Commissioner in accordance with Ark. Code Ann. § 23-61-103(e)(1). The Department was represented by Gray Allen Turner, Associate Counsel. Respondent failed to appear at the hearing.

FINDINGS OF FACT

1. The Commissioner of Insurance has jurisdiction pursuant to the Arkansas Insurance Code, specifically Ark. Code Ann. §§ 23-60-101, *et seq.*

2. Respondent was sent a notice of hearing and notice of emergency license suspension by both regular and certified mail on December 8, 2015, to the address corresponding to his insurance license, 3401 Meandering Ct., Ft. Smith, Arkansas 72903. The notice of hearing, sent by certified mail, was returned to the Department unclaimed on December 29, 2015. The copy of the notice of hearing sent by regular mail was not returned. Therefore, the Respondent received adequate notice of the hearing as required by Ark. Code Ann. § 23-61-109(b)(c).

3. Respondent holds an Arkansas Resident Producer License, National Producer Number 7472368.

4. Documentary evidence and testimony at the hearing established that the Department received a complaint against Respondent from Wendall and Elizabeth Brodie on October 26, 2015. The Brodies had four fixed indexed annuities that were set up through the Respondent's father, Sam Phillips, for their retirement. These accounts were taken over from Sam Phillips, by the Respondent.

5. In 2012, the Respondent approached the Brodies about moving their annuities for their benefit. They agreed and the annuities were moved from Allianz to EquiTrust.

6. In 2014, the Respondent approached the Brodies about moving the annuities to Paradigm. He stated they would receive bonuses and no cash surrender penalty would be charged. The Brodies signed the documents authorizing Equifax to surrender the four annuity accounts and send the checks to Paradigm Financial for the purpose of moving their annuities to Paradigm. At the

time of the surrender, the gross value of the accounts was \$127,748.06. After applying the surrender charges and market value adjustments, the total amount sent from Equitrust to Paradigm Financial was \$100,488.30. The checks were made out and sent to the following: Paradigm Financial Partners LLC, PO Box 23082, Barling, AR 72923.

7. The Brodies never received any policies or copies of documentation from Paradigm regarding the move. The Brodies tried repeatedly to contact the Respondent and he would not respond and failed to provide any policies or documentation from Paradigm regarding the annuities.

8. In 2015 the Brodies consulted with a financial planner who noticed potential issues and discrepancies in the documentation that he reviewed. Mrs. Brodie tried again to reach the Respondent in order to get copies of the policies, statements and any other information to explain where their money was placed and the current status of the accounts.

9. The Department's investigation revealed that Paradigm Financial Partners in Connecticut had no knowledge of the above accounts and they have not done any business with the Respondent in this matter.

10. The Paradigm Financial Partners, LLC in Barling, AR has been revoked by the Arkansas Secretary of State and attempts to contact anyone have been unsuccessful. There is no evidence that this was ever an insurance agency. The letters and statements from "The Equitable" with a signature line of "Equitable Life Insurance and Annuity Company appear to be false documents created by

Respondent and sent to the Brodies. There is no evidence of this company existing or ever being registered as an insurance company or agency. Additionally, the signature on the Equitable letter is the same name as the registered agent for the revoked Paradigm Financial Partners, Clint Martin.

11. The Respondent, while acting as an insurance producer, misappropriated \$100,488.30 and directly caused the loss of \$27,259.76 through surrender charges. These funds appear to have been diverted to a fictitious company by the Respondent and he has failed to provide the Brodies information on the status or whereabouts of those funds. To this date, the Brodies do not have access to their funds.

12. The Respondent has failed to cooperate with the Commissioner in this investigation. The Department has made repeated attempts to contact the Respondent and he has failed to respond or provide requested information. He failed to appear at an investigative conference after being sent formal notice to appear and he failed to appear at the hearing in this matter.

CONCLUSIONS OF LAW

13. Ark. Code Ann. § 23-64-512(a)(4) requires an insurance producer to refrain from "improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business."

14. Ark Code Ann. § 23-64-512(a)(8) requires Respondent to avoid using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, lack of good personal or business reputation, or financial

irresponsibility.

15. Ark. Code Ann. §23-64-512(a)(17) requires a producer to cooperate with the commissioner in an investigation. Respondent's failure to appear at an investigative conference, failure to return phone messages from the Department investigators, and failure to provide the Department with copies of requested files is therefore a violation of Ark. Code Ann. § 23-64-512(a)(17).

RECOMMENDATION OF HEARING OFFICER

WHEREFORE, upon consideration of the evidence of record and the foregoing Findings of Fact and Conclusions of Law, the Hearing officer recommends the following:

16. That the Arkansas Resident Producer's License, National Producer Number 7472368, of Respondent Samuel Bowron Phillips be revoked;

17. That Samuel Bowron Phillips pay restitution in the amount of \$127,748.06. This amount is due immediately and failure to comply with this order may result in enforcement proceedings pursuant to Ark. Code Ann. § 23-61-110(b). Restitution is to be paid to the Arkansas Insurance Department, 1200 W. 3rd, Little Rock, Arkansas, 72201. Any funds received from the Respondent will be sent to Mr. Wendall and Mrs. Elizabeth Brodie.


RUSS GALBRAITH
CHIEF DEPUTY COMMISSIONER
AND HEARING OFFICER

CERTIFICATION

I, Allen Kerr, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer were made by and under my authority and supervision by Russ Galbraith, Chief Deputy Commissioner and Hearing Officer in this proceeding. I hereby adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendations in full, as set forth herein.

THEREFORE, it is hereby ORDERED that the Arkansas Resident Producer's License, National Producer Number 7472368, of Respondent Samuel Bowron Phillips be revoked and that he pay restitution in the amount of \$127,748.06. This amount is due within ten (10) days of this Order and failure to comply with this order may result in enforcement proceedings pursuant to Ark. Code Ann. § 23-61-110(b).

IT IS SO ORDERED THIS 22nd DAY OF FEBRUARY, 2016.



ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS