

**STATE OF MISSISSIPPI
OFFICE OF THE COMMISSIONER OF INSURANCE**

COMMISSIONER OF INSURANCE

PETITIONER

VS.

CAUSE NO. 97-3181

JAMES BROOKS LYNCH

RESPONDENT

ORDER

THIS CAUSE came on for hearing before the Commissioner of Insurance of the State of Mississippi, sitting in a special session in the offices of the Commissioner of Insurance of the State of Mississippi, 10th Floor, Woolfolk State Office Building, 501 North West Street, Jackson, Hinds County, Mississippi on Thursday, February 6, 2003, at 2:00 p.m. on the Amended Notice of Hearing and Statement of Charges filed against James Brooks Lynch ("Respondent"), to hear evidence concerning said complaint, and the Commissioner, or his appointee, having heard and considered all of the testimony and evidence produced by all the parties involved, makes the following Findings of Fact and Conclusions of Law, to-wit:

NOTICE AND HEARING

I.

That on or about September 5, 2002, the Commissioner of Insurance of the State of Mississippi, or his appointee, pursuant to Miss. Code Ann. § 83-17-71 (Supp.2002), gave the required notice to the Respondent of the Commissioner's intention to hold a hearing for the purpose of reviewing the status of Respondent's Privilege License to operate as a Fire Insurance Producer in the State of Mississippi, and to revoke any current producer licenses the Respondent may hold.

II.

That said Notice of Hearing and Statement of Charges was sent to Respondent by certified mail, return receipt requested, in accordance with Miss. Code Ann. § 83-17-71 (Supp.2002), at the address Respondent provided to the Licensing Division of the Mississippi Department of Insurance.

III.

That prior to the hearing date of October 23, 2002, the Respondent requested a continuance, which the Commissioner of Insurance granted.

IV.

That on or about January 8, 2003, The Commissioner of Insurance, or his appointee, pursuant to statute, served an Amended Notice of Hearing and Statement of Charges on the Respondent.

V.

That pursuant to said Notice, a hearing was scheduled before the Commissioner of Insurance of the State of Mississippi, for 2:00 p.m., on Thursday, February 6, 2003.

VI.

That Respondent, James Brooks Lynch, after being duly and properly notified of said hearing in accordance with statutory requirements, appeared at said hearing at its scheduled time in order to testify and submit evidence.

FINDINGS OF FACT

AFTER CONSIDERING all of the evidence presented, the Commissioner of Insurance makes the following Findings of Fact:

VII.

The Respondent had a pending application for the renewal of his Fire Insurance Producer license. No other license application had been submitted to the Department of Insurance by the Respondent prior to the hearing, and, by the date of the hearing, the Respondent's remaining licenses had expired. At the time of the hearing, the Respondent was working as an insurance producer without a valid license. Since the hearing, the Respondent has submitted an application for a Life, Health and Accident Insurance Producer's license to the Mississippi Department of Insurance.

VIII.

The Respondent did deposit premium funds paid to Respondent by Evans Contract Carriers into his general account. Said funds were then used for purposes other than payment of the premium of Evans Contract Carriers' policy.

IX.

The Respondent did knowingly bind Evans Contract Carriers to two (2) premium finance agreements without the consent or knowledge of Evans Contract Carriers. Respondent further caused the proceeds of said finance agreements to be used for purposes other than the financing of Evans Contract Carriers' policy.

X.

The Respondent did deposit four (4) Southern National Financial Corporation bank drafts payable to EMC Insurance Companies into the Respondent's general account and then failed to forward said monies to EMC Insurance Companies.

XI.

The Respondent did deposit a premium payment in the amount of \$6,651.10 paid to Respondent by Stogner Feed Mill and Trucking into his general account and then failed to forward the premium payment to the insurer causing cancellation of Stogner Feed Mill and Trucking's insurance policy.

XII.

The Respondent did fail to keep accurate records of the account for Arlon Gardner Trucking Company. At the hearing, the Respondent admitted that he could not verify if premium refund Mr. Gardner did receive was the correct amount due to the Respondent's inaccurate records.

CONCLUSIONS OF LAW

IN LIGHT OF THE AFOREMENTIONED Findings of Fact, the Commissioner of Insurance finds that Respondent, James Brooks Lynch, has committed the following violations:

XI.

That the Respondent, James Brooks Lynch, has violated the provisions of Miss. Code Ann. § 83-17-71(1)(d) (Supp. 2002), by improperly withholding misappropriated or converted monies or properties received in the course of doing insurance business, in the commission of the acts that have been more particularly described herein in paragraphs VIII. through XI. of this Order.

XII.

That the Respondent, James Brooks Lynch, has violated the provisions of Miss. Code Ann. § 83-17-71(1)(h) (Supp. 2002) by using fraudulent, coercive or dishonest practices or

demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business, in the commission of the acts that have been more particularly described herein in paragraphs VIII. through XII. of this Order.


ORDER

IT IS, THEREFORE, ORDERED that the charges previously filed herein against the Respondent, James Brooks Lynch, should be and the same are hereby sustained.

IT IS FURTHER ORDERED, the renewal application for the issuance of a privilege license to Respondent, James Brooks Lynch, to write and sell Fire Insurance, received by the Mississippi Department of Insurance on August 20, 2002, is hereby denied.

IT IS FURTHER ORDERED, the renewal application for the issuance of a privilege license to Respondent, James Brooks Lynch, to write and sell Life, Health and Accident Insurance, received by the Mississippi Department of Insurance on February 10, 2003, is hereby denied.

SO ORDERED, this the 18th day of February, 2003.


GEORGE DALE
COMMISSIONER OF INSURANCE
STATE OF MISSISSIPPI