

STATE OF MISSISSIPPI
OFFICE OF THE COMMISSIONER OF INSURANCE

COPY

COMMISSIONER OF INSURANCE

PETITIONER

VS.

CAUSE NO. 08-5806

CLARENCE PALMER

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 Tuesday, October 14, 2008, at 10:00 a.m. on the Notice of Hearing and Statement of Charges filed against Clarence Palmer ("Respondent"), to hear evidence concerning said complaint. Having received notice of the hearing, the Respondent appeared and gave testimony. Kimberly Causey, Special Assistant Attorney General, represented the Department, and Faye Peterson, Esq. represented Respondent. Hearing Officer Aaron Sisk took testimony and accepted evidence in this matter. Based upon the evidence and testimony, and upon the recommendation given by the Hearing Officer, the Commissioner makes the following Findings of Fact and Conclusions of Law, to-wit:

STATEMENT OF CHARGES

That the Respondent was charged with the following violations of law in the Notice of Hearing and Statement of Charges issued August 5, 2008:

- Miss. Code Ann. Section 83-17-71(1)(b) that such insurance producer has violated

any insurance laws, or violated any regulation, subpoena or order of the commissioner;

- Miss. Code Ann. Section 83-17-71(1)(e) that such insurance producer has intentionally misrepresented the terms of an actual or proposed insurance contract or the application for insurance; and,
- Miss. Code Ann. Section 83-17-71(1)(h) that such insurance producer has used fraudulent, coercive or dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business.
- Miss. Code Ann. Section 83-17-71(1)(j) that such insurance producer has forged another's name to an application for insurance or to any document related to an insurance transaction.

NOTICE AND HEARING

I.

That on or about August 5, 2008, the Commissioner of Insurance of the State of Mississippi, or his appointee, pursuant to Miss. Code Ann. § 83-17-71 (Supp. 2007), 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 an 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. 2007), at the address Respondent provided to the Licensing Division of the Mississippi Department of Insurance.

III.

That pursuant to said Notice, a hearing was scheduled before the Commissioner of Insurance of the State of Mississippi, for 10:00 a.m., on Tuesday, September 23, 2008. Respondent, by and through his attorney of record, requested and received a continuance to 10:00 a.m. on Tuesday, October 14, 2008.

FINDINGS OF FACT

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

IV.

The Respondent did on or about January 9, 2006, submit an online enrollment application to American Life and Health Insurance Company ("ALHIC") for a Medicare Health Plan offered by affiliates of Coventry Health Care. The application was for Myrtle Smith, the proposed insured. Ms. Smith had passed away in June of 2006, therefore she could not have signed up for this insurance plan as submitted by Respondent.

Respondent testified that he acted pursuant to the rules as set up by ALHIC and the Office of Medicare for this Medicare product. Although the Department does not regulate this product as it is a product regulated by an agency of the Federal government, the Department is statutorily tasked with the responsibility of regulating the actions of insurance agents and insuring all licensed agents comply with the Mississippi Insurance Code. The actions of the Respondent did violate Mississippi law as it governs insurance agents as he submitted an online application of insurance for an applicant more than six (6) months after she passed away.

CONCLUSIONS OF LAW

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

V.

That the Respondent, Clarence Palmer, has violated the provisions of Miss. Code Ann. § 83-17-71(1)(b) and § 83-17-71(1)(h) (Supp. 2007) 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 IV. of this Order.

VI.

That the remaining charges filed against Respondent were not proven by evidence or testimony and cannot be sustained.

ORDER

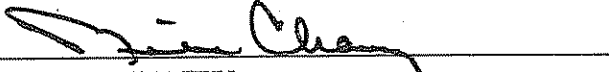
IT IS, THEREFORE, ORDERED that the charges that he violated Miss. Code Ann. § 83-17-71(1)(b) and § 83-17-71(1)(h) as previously filed herein against the Respondent, Clarence Palmer, should be and the same are hereby **SUSTAINED**.

IT IS FURTHER ORDERED, the remaining charges filed against Respondent, Clarence Palmer, shall be **DISMISSED**.

IT IS FURTHER ORDERED, that the privilege license of Respondent, Clarence Palmer, to act as an insurance producer in the State of Mississippi shall remain in effect and in good standing; however, an administrative penalty in the amount of One Thousand Dollars shall be issued against him to be paid to the Department within sixty (60) days of the date of this Order.

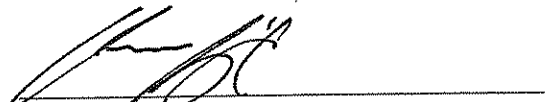
Should the Respondent wish to appeal the Order of the Commissioner, he may follow the procedure set forth in Miss. Code Ann. § 83-17-83 (Supp. 2007).

SO ORDERED, this the 2nd day of December, 2008.



MIKE CHANEY
COMMISSIONER OF INSURANCE
STATE OF MISSISSIPPI

Report and Recommendation Submitted by:



AARON SISK
HEARING OFFICER