

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

**IN THE MATTER OF RICHARD A. CARR:
ACTION AGAINST INSURANCE PRODUCER
LICENSE NO. 308134**

FINDINGS AND ORDER

THIS CAUSE came on for hearing before the Commissioner of Insurance of the State of Mississippi (hereinafter "Commissioner"), by and through his specially designated appointee (hereinafter "Hearing Officer"), in the Office of the Commissioner, 10th Floor, Woolfolk State Office Building, 501 North West Street, Jackson, MS 39205, on Wednesday, June 26, 2013, at 1:30 p.m., pursuant to a Notice of Hearing and Statement of Charges served on Richard A. Carr on May 17, 2013. The Commissioner, by and through the designated Hearing Officer, Ms. Kimberly Causey, having heard and considered all of the testimony and evidence produced by the parties herein, makes the following findings:

Authority

The hearing herein was held pursuant to the provisions of Miss. Code Ann. § 83-17-71, *et seq.* (Rev. 2011), providing for the licensing of insurance producers by the Mississippi Insurance Department (MID) and providing for disciplinary actions against producers.

Notice and Hearing

1. A notice of hearing was personally served upon Mr. Carr on May 17, 2013. Exhibit S-1.
2. Pursuant to said notice, a hearing was held at 1:30PM, on June 26, 2013.
3. Based upon an investigation conducted by Mr. Octavius Sample, MID Investigator, and material supplied by Woodmen of the World, Mr. Carr was charged with violating the provisions of Miss. Code Ann. §83-17-71(1) (h) (Rev. 2011), by using fraudulent and/or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state by personally paying the premiums on the following against the wishes and without the permission of the individuals listed below. Exhibit S-8.

Devetta Johnson	9444860
Michael Barnett	9232556
Timothy Johnson	9242681

4. Based upon an investigation conducted by Mr. Octavius Sample, MID Investigator, and material supplied by Woodmen of the World, Mr. Carr was charged with violating the provisions of Miss. Code Ann. §83-17-71(1) (j) (Rev. 2011), by forging signatures on the following Delivery Receipts. Exhibits S-8, S-9 and S-2 thru S-6.

Janette Langston	9151474
Lena Williams	9172406
Kendra Hamilton	9241248
Kendrick Hamilton	9250891
Danielle Ledbetter	9443459

5. Richard A. Carr appeared at the hearing, gave testimony and submitted written statements from those listed below. Exhibits R-1 thru R-6:

Janette Langston	9151474
Lena Williams	9172406
Kendra Hamilton	9241248
Kendrick Hamilton	9250891
Danielle Ledbetter	9443459
Vanolia Ledbetter	Unknown

6. Garret Emerson, North Mississippi Area Manager, Woodmen of the World, appeared at the hearing telephonically and gave testimony based upon his Affidavit. Exhibit S-7.
7. Lena Williams personally appeared at the hearing at Mr. Carr's request, and gave testimony based upon her written statement. Exhibit R-2.

Findings of Fact

1. The Mississippi Insurance Department was notified that Mr. Carr's appointment was terminated with Woodmen of the World based upon a letter and complaint received December 12, 2012. Hereafter referred to as "Complaint". Exhibit S-8.
2. The Complaint detailed Mr. Carr's alleged acts of improper business practices, by paying the premiums, and forgery, by forging the signatures on Delivery Receipts, for the following:

Devetta Johnson	9444860	Improper Business Practices
Michael Barnett	9232556	Improper Business Practices
Timothy Johnson	9242681	Improper Business Practices
Janette Langston	9151474	Forgery

Lena Williams	9172406	Forgery
Kendra Hamilton	9241248	Forgery
Kendrick Hamilton	9250891	Forgery
Danielle Ledbetter	9443459	Forgery

Exhibit S-8

3. Mr. Emerson stated for the record, and affirmed his Affidavit, that he and his supervisor suspected Mr. Carr of forgery based upon discrepancies and similarity between the signatures on the applications and Delivery Receipts.
4. Mr. Emerson stated for the record, and affirmed his Affidavit, that Mr. Carr admitted forging the signatures for Delivery Receipts in March, 2012 and November, 2012. Exhibit S-7.
5. Mr. Carr’s appointment as a producer for Woodmen of the World was terminated on November 30, 2102. Exhibit S-7.
6. Mr. Carr stated that he only admitted to not witnessing the signatures of the Delivery Receipts for Kendra Hamilton and Kendrick Hamilton and not to any forgery.
7. Mr. Carr stated that he cannot control how clients sign their names especially when using electronic signature pads.
8. Mr. Carr submitted signed, but not notarized, statements from his clients which state that the signature on the Delivery Receipts is their own. Exhibits R-1 thru R-6.
9. Ms. Lena Williams testified that it is her signature on her Delivery Receipt. Exhibit R-2.
10. Mr. Carr admitted that he mistakenly paid the premium for three clients listed below from his personal bank account:

Devetta Johnson	9444860
Michael Barnett	9232556
Timothy Johnson	9242681

Conclusions of Law

1. The Commissioner has jurisdiction over this matter pursuant to Miss. Code Ann. § 83-17-71, *et seq.* (Rev. 2011), providing for the licensing of insurance producers by the Mississippi Insurance Department and specifically providing for disciplinary actions against producers.
2. MID gave proper notice of the hearing and has fulfilled all relevant substantive and procedural requirements of law or rule.
3. The standard of proof for an administrative agency to revoke or restrict a license is “clear and convincing”. *Hogan v. Mississippi Bd. of Nursing*, 457 So2d 931, 934 (Miss. 1984).

4. Miss. Code Ann. § 83-17-71(1) (Rev. 2011) provides that the Commissioner may “place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in an amount not to exceed One Thousand Dollars (\$1,000.00) per violation” for “(j) Forging another's name to an application for insurance or to any document related to an insurance transaction”.
5. Regarding the five (5) charges of alleged forgery and weighing the evidence presented by both parties plus witnesses there is reasonable doubt that forgery was committed in that it is possible that Mr. Carr’s admissions were misconstrued by Mr. Emerson. Also, the statements by the five effected parties denying the forgery created reasonable doubt. (Exhibits R-1 thru R-6) Therefore Mr. Carr is found not to have violated the provisions of Miss. Code Ann. §83-17-71(1) (j) (Rev. 2012), by forging signatures on the Delivery Receipts.
6. Miss. Code Ann. §83-17-71(1) (Rev. 2011) provides that the Commissioner may “place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in an amount not to exceed One Thousand Dollars (\$1,000.00) per violation” for “(h) Using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere”.
7. Regarding the three (3) charges of under this code section Mr. Carr clearly demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state by personally paying the premiums against the wishes of the individuals listed below and without their permission thereby violating the provisions of Miss. Code Ann. §83-17-71(1) (h) (Rev. 2012).

Devetta Johnson	9444860
Michael Barnett	9232556
Timothy Johnson	9242681

8. Said violations subject Mr. Carr to the various disciplinary actions set forth in Miss. Code Ann. § 83-17-71 (Rev. 2011).


Order

IT IS ORDERED that the five (5) charges against Richard A. Carr for violating the provisions of Miss. Code Ann. §83-17-71(1) (j) (Rev. 2012), by forging signatures on client Delivery Receipts be dismissed.

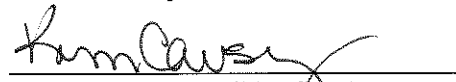
IT IS FURTHER ORDERED that the insurance producer license of Richard A. Carr be hereby revoked for Six (6) months from the date of this hearing (June 26, 2013) for violation of the provisions of Miss. Code Ann. §83-17-71(1) (h) (Rev. 2012).

IT IS FURTHER ORDERED that should Mr. Carr be charged and found guilty of an additional violation of Miss. Code Ann. §83-17-71 within twelve (12) months of the date of this hearing (June 26, 2013) his producer license shall be permanently revoked.


SO ORDERED, this the 15 day of July, 2013.


MIKE CHANEY
COMMISSIONER OF INSURANCE

Submitted by:


KIMBERLY G. CAUSEY
HEARING OFFICER

Prepared by:


John W. Eads
Special Assistant Attorney General