

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

ARKANSAS INSURANCE DEPARTMENT,)
Petitioner)
)
vs.)
)
JAMES LAWRENCE GWYN,)
Respondent)
)

A.I.D. Order No. 2010- 081

FINAL ORDER

On this day, the matter of James Lawrence Gwyn (“Respondent”) came before Jay Bradford, Arkansas Insurance Commissioner (“Commissioner”). A hearing was held at 10:00 a.m. on September 23, 2010, in the Hearing Room of the Arkansas Insurance Department (hereinafter referred to as the “Department”). The hearing was held before the Honorable William R. Lacy (“Hearing Officer”) pursuant to his appointment by the Commissioner in accordance with Ark. Code Ann. § 23-61-103. The Department was represented by Nina Samuel Carter, Associate Counsel. Respondent was not present after proper notice was sent.

FINDINGS OF FACT

1. The Commissioner of Insurance has jurisdiction pursuant to the Code, specifically Ark. Code Ann. §§ 23-61-101, *et seq.*
2. Ark. Code Ann. §§ 23-61-101, *et seq.*, assigns the responsibility for administration of the Arkansas Insurance Code to the Commissioner. The Department is the lawful agency through which the Commissioner administers the Arkansas Insurance Code, and is authorized to bring this action for the protection of Arkansas consumers.

3. James Lawrence Gwyn (“the Respondent”) is a person currently licensed by the Department as an insurance producer with an address of record being 412 Meadow Lake Circle, Apt. 7, Searcy, Arkansas 72143. The Respondent became licensed as an insurance producer in or around 2008, and currently holds Arkansas Resident Producer License Number 337438.

4. On February 17, 2010, the Respondent was terminated by American Family Life Assurance Company of Columbus (“AFLAC”) for cause after an investigation was conducted on the allegation that the Respondent had submitted applications without final approval from the applicant and forging the applicant’s signature on applications.

5. On or around December 2, 2009, Lauren Ford, a citizen and resident of the state of Arkansas, met with the Respondent at her place of employment, Arkansas Children’s Therapy Group, to receive information and quotes on AFLAC short term disability policies. Ms. Ford neither filled out an application nor did she sign an application; however, she subsequently received short term disability and hospital indemnity policies from AFLAC.

6. Ms. Ford asked the Respondent for a quote on dental, life, and short term disability policies, but told the Respondent that she did not want a policy on that day and would contact him if she wanted to obtain a policy. Ms. Ford did not see or speak to the Respondent after that initial visit.

7. On or around December 9, 2009, the Respondent submitted applications for disability insurance and hospital indemnity insurance to AFLAC purportedly on behalf of Ms. Ford. Ms. Ford never authorized an application for insurance to be submitted on her behalf.

8. The applications submitted by the Respondent include what is purported to be the signature of Ms. Ford. However, Ms. Ford never signed any application for insurance from AFLAC, including the ones submitted by the Respondent.

9. Further, the applications submitted by the Respondent incorrectly answer some of the questions, including the sex of the applicant, her marital status, and her occupation.

10. On or around December 2, 2009, Rachael Henderson, a citizen and resident of the state of Arkansas, met with the Respondent at her place of employment to discuss short term disability insurance. After their meeting, Ms. Henderson informed the Respondent that she wanted to discuss the matter with her husband before making a decision.

11. On or around December 4, 2009, the Respondent submitted applications for disability insurance and hospital indemnity insurance to AFLAC purportedly on behalf of Mr. Henderson. Ms. Henderson never authorized an application for insurance to be submitted on her behalf.

12. The applications the Respondent submitted to AFLAC on behalf of Ms. Henderson purport to be signed by Ms. Henderson. However, Ms. Henderson never signed any applications for insurance to AFLAC, including the ones submitted by the Respondent.

13. Further, the applications submitted by the Respondent contain a misspelling of the applicant's first name and incorrectly answer some of the questions, including the sex of the applicant, her birth date, her marital status, the billing method at her job, her job duties, and her occupation.

14. On March 11, 2010, Joie Tester, Investigator, mailed a Notice of Investigative Conference, scheduled for March 30, 2010, to Respondent. The certified green card was returned with Respondent's signature as received on March 12. Both Notices addressed to Respondent's business address were returned as "not deliverable as addressed, unable to forward."

15. Respondent did not appear for the scheduled Investigative Conference or inform

the Department that he would not be able to attend. Copies of the complaint were included with the Notice, but the Department has not received any response or communication from the Respondent. The Notice did advise the Respondent that failure to attend the Investigative Conference could result in administrative action against his license.

CONCLUSIONS OF LAW

16. The following are grounds for revocation of the Respondent's Arkansas Resident Producer License pursuant to Ark. Code Ann. §§ 23-64-216(a)(1) and 23-64-512(a):

(2). Violating any insurance laws; ...

(5). Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance; ...

(7). Having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8). Using fraudulent or dishonest practices, demonstrating incompetence, untrustworthiness, lack of good personal or business reputation; ...

(10). Forging another's name to an application for insurance or to any document related to an insurance transaction; ...

(16). Refusing to be examined or to produce accounts, records or files for examination; and

(17). Failing to cooperate with the Commissioner in an investigation.

17. Respondent's forging signatures on applications is grounds for revocation pursuant to Ark. Code Ann. § 23-64-512(a)(2), (7), (8), and (10).

18. Respondent's completion of insurance applications with false information and without the permission of the consumer is grounds for revocation pursuant to Ark. Code Ann. §

23-64-512(a)(2), (5), (7), and (8).

19. Respondent's failure to attend the scheduled Investigative Conference or respond during its investigation is grounds for revocation pursuant to Ark. Code Ann. § 23-64-512(a)(16) and (17).

ORDER

Based on the Findings of Fact and Conclusions of Law contained herein, it is ORDERED that the Arkansas Resident Producer License No. 337438 issued to James Lawrence Gwyn is hereby REVOKED.

IT IS SO ORDERED THIS 28 DAY OF SEPTEMBER, 2010.



WILLIAM R. LACEY
HEARING OFFICER,
DIRECTOR OF PROPERTY &
CASUALTY DIVISION
STATE OF ARKANSAS