

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

**IN THE MATTER OF
BRIANNA D. PENSE,
LICENSE NO. 367145**

A.I.D. No. 2011- 235

CONSENT REVOCATION ORDER

On this day, Jay Bradford, Arkansas Insurance Commissioner (“Commissioner”), and Brianna D. Pense (“Respondent”) reached an agreement concerning the resident insurance agent license issued to Respondent by the Arkansas Insurance Department (hereinafter referred to as the “Department”). The Commissioner was represented by Nina Samuel Carter, Associate Counsel. Respondent was represented by Sherri Latimer and H.C. Jay Martin of James R. Wallace & Associates, PLLC, and voluntarily and intelligently waived her right to a hearing and consented to the entry of this Consent Order. From the facts and law before the Commissioner, he finds:

FINDINGS OF FACTS

1. Respondent is licensed in Arkansas as a casualty, property, and surety insurance producer. Respondent’s last address of record at the Department is 21318 Mount Gaylor Road, Winslow, AR 72959. Respondent holds Arkansas Resident Agent License Number 367145 which became inactive on September 10, 2011, due to nonrenewal.

2. On or about February 8, 2011, a complaint was filed with the Department by Stan Tague of Sterling Group Insurance (“Sterling”) stating that Respondent’s mother-in-law, Diana Pense, had been terminated from Sterling for violating the non-compete clause in the agent agreement signed by Diana Pense on March 8, 2010. Mr. Tague alleged that Diana Pense

opened her own agency (Pense Insurance Agency) with Respondent in Farmington, Arkansas, while still employed at Sterling. Tague further alleged that she used agent of record change forms to moved insureds from Sterling to the Pense Insurance Agency by putting Respondent's name as the new agent of record.

3. The non-compete clause stated that it would become effective at the time of Diana Pense's termination and end one year after termination. The clause also provided that she could not directly or indirectly solicit, sell, or service insurance of any kind of another company agent or broker.

4. The complaint also included forms signed by several consumers stating that they had not signed the request or Agent of Record change form submitted for their policy to be moved from Sterling.

5. Metlife's Special Investigation Unit ("SIU) conducted an investigation of Diana Pense based on the accusation of Mr. Tague, of Sterling, that Diana Pense and her daughter-in-law, Respondent, were forging documents to transfer Sterling customers to the Pense Agency.

6. Metlife's SIU report states that seven customers who originally had policies with Sterling and then transferred to Pense were contacted. All customers are currently transferred back to Sterling. The report also states that it was confirmed that one transfer document from Sterling to Pense is a forgery. The customers were all new business written by Respondent's mother-in-law during her tenure with Sterling and not long-standing clients of Sterling.

7. Respondent's mother-in-law and their agency were terminated by Metlife Auto & Home ("Metlife") as of February 17, 2011.

8. Liberty Mutual/Safeco conducted their own investigation by looking at twenty five (25) customers and found two customers claiming that the signatures on the agent of record

form were forged. Safeco reversed the agent of record changes and terminated the access that Diana Pense had with them.

9. Respondent provided a statement to the Department, signed April 6, 2011:

I: Brianna Pense (formerly Brianna France): Am an agent for Pense Insurance Agency. I've been working for Pense Insurance since last year; from around July 2010. Diana K. Pense from Pense Insurance Agency book rolled the clients she and I had written to me. I didn't have a contract with Sterling Group Insurance Agency, and didn't work for Stan Taugue.

10. For the above actions, the Department alleges that Respondent is in violation of the Insurance Code for: Violating any insurance laws or violating any regulation that calls into question the insurance producer's fitness to hold a license, in violation of Ark. Code Ann. § 23-64-512(a)(2); Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, lack of good personal or business reputation or financial irresponsibility, in violation of Ark. Code Ann. § 23-64-512(a)(8); Forging another's name to an application for insurance or to any document related to an insurance transaction, in violation of Ark. Code Ann. § 23-64-512(a)(10); Failing to produce any records or files for examination, in violation of Ark. Code Ann. § 23-64-512(a)(16); and Engaging in an unfair method of competition or deceptive act or practice in the business of insurance, in violation of Ark. Code Ann. § 23-66-205.

11. Respondent desires to voluntarily submit her Arkansas Resident Producer licenses for revocation by the Department. In so doing, Respondent neither admits nor denies the Findings of Fact as set forth herein.

CONCLUSIONS OF LAW

12. That the Commissioner has jurisdiction over the parties and over the subject matter herein pursuant to Ark. Code Ann. § 23-61-103.

13. That pursuant to Ark. Code Ann. § 23-64-216, the Commissioner may revoke any license issued by him if it is found that any one (1) or more violations of the causes listed under § 23-64-512 exist.

14. That Respondent has been made fully aware of her right to a hearing and has voluntarily and intelligently waived said right and consents to the entry of this Consent Order.

ORDER

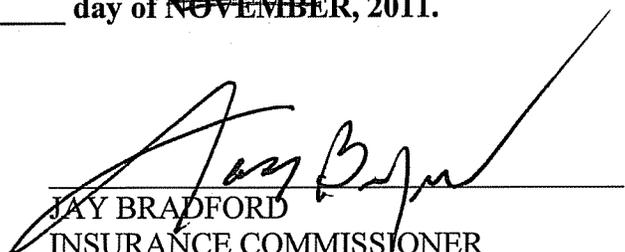
NOW THEREFORE, on the basis of the foregoing and the waiver of the Respondent of the right to a hearing and appeal under the Arkansas Uniform Administrative Procedures Act, Ark. Code Ann. §§ 25-15-201, *et seq.*, and the admission by the Respondent of the jurisdiction of the Commissioner, the Commissioner finds that the Respondent has consented to the entry of this Order and that the following Order is appropriate and in the public interest.

IT IS HEREBY ORDERED that:

- A. Respondent's resident Arkansas producer license is hereby REVOKED;
- B. Pursuant to Ark. Code Ann. § 23-64-218(a)(1) and (2), Respondent shall immediately forward to the Commissioner all insurance agent and agency licenses issued to Respondent by the Department;
- C. The Commissioner will not consider any application for licensure from the Respondent until the expiration of three (3) years from the date of this Order. The Commissioner may consider this Order and the facts set forth herein in determining whether to grant any future application; and

D. The Department shall notify Respondent and Agency's appointing insurance companies of this action pursuant to Ark. Code Ann. § 23-64-217(a)(3).

IT IS SO ORDERED THIS 9th December day of ~~NOVEMBER~~, 2011.



JAY BRADFORD
INSURANCE COMMISSIONER
STATE OF ARKANSAS



Brianna D. Pense
Pense Insurance Agency