

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

ARKANSAS INSURANCE DEPARTMENT, )  
Petitioner )  
 )  
vs. )  
 )  
RACHEAL HENLEY, LICENSE NO. )  
381936, )  
Respondent )

A.I.D. NO. 2012-692-B

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**FINAL ORDER OF SUSPENSION**

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On this day, the matter of Racheal A. Henley (“Respondent”) came before Allen Kerr, Arkansas Insurance Commissioner (“Commissioner”). Respondent’s license was revoked after a hearing was held August 16 and 17, 2012, in the Administrative Conference Room of the Arkansas Insurance Department (“Department”). The Department was represented by Amanda J. Andrews, Associate Counsel, and Respondent was represented by Ray Hodnett. The Department is currently represented in this matter by Amanda Gibson, Associate Counsel, and the Respondent is currently represented by Joseph Self.

**PROCEDURAL HISTORY**

The Revocation Order was entered by previous Commissioner Jay Bradford on September 17, 2012, and a Corrected Revocation Order was entered on October 4, 2012 in order to make some minor changes to paragraph 7(g) in the Findings of Fact, and paragraph 19 in the Conclusions of Law.

On October 1, 2012, Respondent petitioned the Circuit Court in Crawford County for judicial review, and on August 18, 2014, the Circuit Court entered an order (Order Number CV-2014-1148) striking some of the provisions in the Corrected Revocation Order and remanding

the case to the Department to provide for appropriate sanctions consistent with the remaining findings in the Corrected Revocation Order.

On August 26, 2014, the Department appealed the Circuit Court's order to the Arkansas Court of Appeals, and the appeal was subsequently dismissed on January 27, 2016. Therefore, this Final Order of Suspension is being entered in order to comply with the Circuit Court's August 18, 2014 Order.

### **FINDINGS OF FACT**

1. Respondent was a licensed title insurance agent who was employed at Edwards Title, L.L.C. ("Edwards") in Van Buren, Arkansas. Respondent became licensed on March 26, 2011.
2. Respondent was the Operations Manager of Edwards and was authorized to write title insurance through Edwards' appointments. In her capacity as Operations Manager, Respondent oversaw Edwards' employees, handled closing transactions, disbursements and deposits, and signed title commitments and policies. Respondent also assisted with reconciling the agency's escrow account.
3. On September 26, 2011, Stewart Title Guaranty Company ("Stewart") notified the Department that it had terminated Edwards' appointment for cause. Specifically, in the Agency Appointment Termination Request, Stewart stated that an employee of Edwards stole money from the escrow account, but neither the Respondent nor Charles B. Dyer ("Dyer"), the owner of the agency, reported the theft to Stewart or the Department as required by Ark. Code Ann. § 23-66-505. Further, Stewart discovered in an audit of Edwards' escrow account, shortages in the account and delays in reconciliation of the account.
4. During the course of its investigation, the Department reviewed a number of Stewart's audits of Edwards. These audits are the ones that are required pursuant to Ark. Code Ann. § 23-

103-411. Upon review of the audits, the Department discovered significant problems, including delinquency in escrow account reconciliations, shortages in closing files and excessive delay in paying off mortgages.

5. On November 17, 2011, the Department sent a notice of Investigative Conference to Respondent. That conference was held on December 20, 2011, and Respondent appeared with counsel. Due to Dyer's and Respondent's inability to explain at the conference, the details of the escrow account theft and manipulation, the Department retrieved files from Edwards for closings performed by Susan Hudson, Edwards' former employee who is alleged to have stolen the escrow funds, as well as reconciliations and bank statements for all escrow accounts for the period beginning January 1, 2009 and ending February 15, 2011.

6. A Notice of Hearing was mailed to Respondent by certified mail on May 31, 2012, advising that a hearing was scheduled for July 3, 2012. Due to several scheduling conflicts, the hearing was rescheduled for August 16 and 17, 2012, and Respondent was served through counsel on July 25, 2012 with an Amended Notice of Hearing with the August hearing date.

7. Respondent admitted at the hearing that she had knowledge of, but did not report, the escrow theft to the Department or to Edwards' underwriters.

8. Respondent's license number was not printed or written beneath her signature on all title commitments and policies she issued.

9. The printed names and license numbers of the title insurance agency and the affiliated title insurance agent authorized to issue the title commitment or policy on behalf of the title insurer were not properly listed on title commitments or policies issued by Respondent.

10. Title insurance policies issued by Respondent did not include proper contact information of the producer or agency soliciting the policy and the Arkansas Insurance Department.

11. The title insurance commitments which Respondent issued did not incorporate the statutory language required by Ark. Code Ann. § 23-103-413(2) on the first page in bold type.

12. Respondent did not maintain required information in her closing files.

### CONCLUSIONS OF LAW

1. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Ark. Code Ann. § 23-61-101, *et seq.*

2. Ark. Code Ann. § 23-64-512(a) provides, in pertinent part, that the Commissioner may place on probation, suspend, revoke, or refuse to renew an insurance producer's license upon finding that an insurance producer has violated one or more of the grounds enumerated therein, including violating a law or regulation of the Commissioner; improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business; and using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, lack of good personal or business reputation, or financial irresponsibility.

3. The witness testimony and supporting documentation entered into evidence at the hearing are sufficient to make a finding that Respondent failed to perform certain ministerial tasks as required by statute:

a) Respondent violated Rule 87 § 10(D) by failing to put her license number as the countersigning agent on title commitments and policies.

b) Respondent violated Rule 87 § 10(E) by failing to print her name and the license number of the agency on commitments and policies.

c) Respondent violated Ark. Code Ann. § 23-79-138(a) by failing to include the contact information of the agency and the Department on policies she issued.

d) Respondent violated Ark. Code Ann. § 23-103-413(2) by failing to provide statutory notice on title commitments she issued.

e) Respondent violated Ark. Code Ann. § 23-103-414 by failing to maintain adequate records in her closing files.

**ORDER**

The Commissioner has reviewed this matter and found that the findings above are consistent with the Circuit Court's 2014 Order.

It is hereby ordered that AID Order Numbers 2012-692 and 2012-692-A, and the license revocation ordered therein, are **rescinded**.

**IT IS HEREBY ORDERED** that:

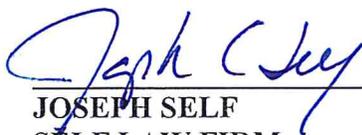
Pursuant to Ark. Code Ann. § 23-64-216(a) Respondent's license is suspended for thirty-six months, effective as of the date of the Revocation Order No. 2012-692, dated September 17, 2012.

Upon reinstatement from suspension on September 17, 2015, Respondent's license is in probationary status for thirty-six months, or until September 17, 2018.

**IT IS SO ORDERED THIS** 27<sup>nd</sup> day of December, 2016.



**ALLEN KERR  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS**



**JOSEPH SELF  
SELF LAW FIRM  
ATTORNEY FOR RESPONDENT**