

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

ARKANSAS INSURANCE DEPARTMENT,)
Petitioner)
)
vs.)
)
BRADLEY NEAL THOMAS and)
THOMAS & ASSOCIATES AGENCY, INC.)

A.I.D. NO. 2015- 008

EMERGENCY SUSPENSION ORDER

On this day, the matter of Bradley Neal Thomas (“Respondent”) and Thomas & Associates Agency, Inc. (“Agency”) came before Allen Kerr, Arkansas Insurance Commissioner (“Commissioner”). The Arkansas Insurance Department (“Department”) is represented by Amanda Capps Rose, Associate Counsel, in this matter. From the facts and law before him, the Commissioner finds as follows:

FINDINGS OF FACT

1. Respondent holds an Arkansas Resident Producer License, National Producer Number 7536222. Respondent resides in Cabot, Arkansas. Respondent is the President of the Agency, National Producer Number 7669127, which is located in Cabot, Arkansas.

2. The Department’s Consumer Services Division has received multiple consumer complaints against the Agency since 2005. The five (5) most recent complaints forwarded to the Department’s Legal Division are summarized as follows:

- (a) On June 4, 2013, Aleks Safonov filed a consumer complaint against the Agency on behalf of World Truck, LLC. The complaint alleges that World Truck, LLC purchased a cargo liability policy from the Respondent on June 11, 2012 and suffered a loss on June 30, 2012. Respondent and the Agency denied the claim based on an exclusion the consumer alleges was not communicated to World

Truck, LLC and was added without its consent. On April 3, 2014, a judgment was entered in the Carver County, Minnesota District Court, Case No. 10-CV-14-129 against the Agency in favor of World Truck, LLC in the amount of seventy-six thousand, two hundred seventy-eight dollars and ninety-two cents (\$76,278.92) with respect to this matter. [Legal Division File No. 2014-056]

- (b) Guardian Premium Finance (“Guardian”) filed a consumer complaint against the Agency on March 24, 2014 with regard to D & L Trucking, the insured. Guardian provided premium financing for a policy on the insured issued by National Casualty Company and paid the annual premium. Three months into the policy year, D & L Trucking desired to cancel the policy, and Guardian submitted a notice of cancellation to National Casualty Company. According to the complaint, a check was then issued to the Agency to return the unearned premium of four thousand, two hundred forty-seven dollars (\$4,247.00). Guardian has been able to obtain a refund of these funds. [Legal Division File No. 2014-055]
- (c) Guardian filed a second consumer complaint on March 31, 2014 with the same facts as the above paragraph, except that this involved CAMO Auto Transport as the insured and the unearned premium was in the amount of five thousand, fifty-one dollars and eleven cents (\$5,051.11). Upon cancellation of the policy after payment of the annual premium, a check in this amount was, according to the complaint, issued from Essex Insurance to the Agency. After several attempts, Guardian has been returned these funds. [Legal Division File No. 2014-054]
- (d) On May 12, 2014, Guardian filed another complaint against the Agency with regard to three insureds. The allegations are that the Agency failed to return unearned commissions to Guardian for these three insureds, in the total amount of nine hundred seventy-two dollars and one cent (\$972.01). This complaint states

that “[t]he ongoing problems with Brad Thomas do not seem to be improving.”

Guardian was able to obtain a refund of these funds. [Legal Division File No. 2014-075]

- (e) Expedited Driveway, LLC filed a consumer complaint on August 26, 2014 against the Agency alleging that it paid thirty-nine thousand, eight hundred seventy-five dollars (\$39,875.00) by check to the Agency and later learned that no coverage had been placed. Expedited Driveway, LLC, according to its complaint, was forced to close its business for ten (10) days while securing other coverage and was unable to obtain a refund of any of the funds paid to the Agency. [Legal Division File No. 2014-146]

3. An Investigative Conference was scheduled for December 12, 2014 with the Legal Division to discuss these most recent consumer complaints. Respondent confirmed via a telephone conversation with Legal Division Investigator, Marjorie Farmer, that he was available to attend on that date.

4. Respondent failed to appear at the Notice of Investigative Conference on December 12, 2014 and failed to contact the Department either prior to or following the conference with regard to his failure to appear.

5. The public health, safety, and welfare imperatively require emergency action.

CONCLUSIONS OF LAW

From the Findings of Fact contained herein, the Commissioner concludes as follows:

1. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Ark. Code Ann. § 23-61-103.
2. The Commissioner has the authority to issue an emergency license suspension pursuant to Ark. Code Ann. §§ 23-64-216(e) and 25-15-211(c).

3. Pursuant to Ark. Code Ann. § 23-64-512(a)(8), the Commissioner may suspend or revoke an insurance producer's license for "using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, lack of good personal or business reputation, or financial responsibility."

4. The Commissioner may suspend or revoke an insurance producer's license for failing to cooperate in an investigation. Ark. Code Ann. § 23-64-512(a)(17).

5. All moneys received by a licensee in his capacity as a licensee are trust funds received by the licensee as a fiduciary. Failure to pay funds so received to the appropriate party is a violation of Ark. Code Ann. § 23-64-223 and constitutes theft of property.

6. An administrative hearing will be held promptly, as required by Ark. Code Ann. § 23-64-216(e)(2). A Notice of Hearing is being served herewith.

7. The Commissioner and the Department reserve the right to amend the allegations, findings and conclusions set forth herein and further reserve the right to present additional allegations and evidence and request restitution in any subsequent order or administrative hearing.

IT IS THEREFORE ORDERED:

In consideration of the Commissioner's Findings of Fact and Conclusions of Law, the Respondent's Arkansas Resident Producer License, National Producer Number 7536222, and the Agency's License, National Producer Number 7669127, are hereby immediately suspended.

IT IS SO ORDERED this 20th day of January, 2015.



**ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS**