

BEFORE THE INSURANCE COMMISSIONER  
FOR THE STATE OF ARKANSAS

IN THE MATTER OF:

AID ORDER NO. 2016- 014

SARA SMITH, NPN15670840  
RESPONDENT

REVOCATION ORDER

On this day, the matter of the producer's license of Sara Smith ("Respondent") came before Allen Kerr, Arkansas Insurance Commissioner ("Commissioner"). A hearing was held on January 21, 2016, in the First Floor Hearing Room of the Arkansas Insurance Department ("Department") pursuant to the Notice of Hearing dated December 14, 2015. The hearing was held before Chief Deputy Commissioner Russ Galbraith ("Hearing Officer") pursuant to his appointment by the Commissioner in accordance with Ark. Code Ann. § 23-61-103(e)(1). The Department was represented by Gray Allen Turner, Associate Counsel. The Respondent appeared at the hearing without counsel.

FINDINGS OF FACT

1. The Commissioner of Insurance has jurisdiction pursuant to the Arkansas Insurance Code, specifically Ark. Code Ann. §§ 23-60-101, *et seq.*
2. Respondent, Sara Smith, received notice of the hearing and participated in the hearing.
3. Respondent resides in Fayetteville, Arkansas.

4. The following evidence was admitted into the record and considered by the hearing officer: (1) Designation of hearing officer, (2) notice of hearing, (3) Consumer complaint, (4a) handwritten request, (4b) affidavit, (4c) affidavit of forgery, (5) notice of investigative conference, (6) termination for cause, (7) September 14, 2015, letter, (8) September 15, 2015, letter, (9) recorded calls, (9a) underwriting information, (9b) underwriting information, (10) November 20, 2015, memo.

5. Based on the testimony and the evidence presented, the Hearing Officer makes the following findings of fact:

a. Respondent Sara Smith is a licensed Arkansas insurance producer. In September of 2015, Respondent had an active appointment with Mutual of Omaha. On September 3, 2015, the underwriting department of Mutual of Omaha received a cell phone call from a person identifying herself as Mrs. Lola Brown. The call was placed from Respondent's cell phone. The purpose of the call was to confirm medical history as part of an application for a life insurance policy. The phone call was recorded and provided to the Arkansas Insurance Department and was played during the hearing. On the phone call, the person who identified herself as Lola Brown stated that she did not have any heart conditions and had never received treatment for an irregular heart beat. She stated she was taking medication for high blood pressure.

On September 4, 2015, the underwriting department for Mutual of Omaha called Lola Brown on her home telephone to confirm medical information on her life

insurance application. This call was also recorded and portion of this call was played during the hearing. The caller clearly identified herself as Ms. Lola Brown, however the voice was distinctly different than the voice heard on the September 3rd telephone call. On this call, Mrs. Brown stated she had received treatment for an irregular heartbeat and was currently taking medication for her condition.

The Mutual of Omaha underwriting department sent a letter to Respondent requesting that she explain the discrepancies in the information provided in the two phone calls. (Exhibit 7). In the letter, Respondent was asked "Did you complete the September 3, 2015, underwriting telephone interview for Ms. Brown? Please explain." Respondent, in an email reply, stated "I did not complete the interview for her." (Exhibit 8).

At the hearing, Respondent acknowledged that she made the call to Mutual of Omaha on September 3, 2015, not Mrs. Brown. She testified that Mrs. Brown was present during this telephone call.

b. Respondent dishonestly represented herself as Lola Brown when she called Mutual of Omaha underwriting department on September 3, 2015. Likewise, Respondent dishonestly answered the question sent from Mutual of Omaha that asked "Did you complete the September 3, 2015, underwriting telephone interview for Ms. Brown? Please explain" when she denied completing the interview for Mrs. Brown.

## CONCLUSIONS OF LAW

1. Ark. Code Ann. § 23-64-512(a)(8) requires a producer to avoid "using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, lack of good personal or business reputation, or financial irresponsibility." Respondent, while acting as an insurance producer, dishonestly represented herself as a customer during a phone call she made to Mutual of Omaha on September 3, 2015. Respondent also made a dishonest statement when replying to Mutual of Omaha's letter sent September 15, 2015, in that she denied completing a phone call for the customer. Respondent's actions constitute dishonest practices and demonstrate untrustworthiness. Respondent's actions are therefore are violation of Ark. Code Ann. § 23-64-512(a)(8).

## RECOMMENDATION OF HEARING OFFICER

WHEREFORE, upon consideration of the evidence of record and the foregoing Findings of Fact and Conclusions of Law, the Hearing officer recommends the following:

1. That the Arkansas insurance producer license of Respondent Sara Smith be revoked.



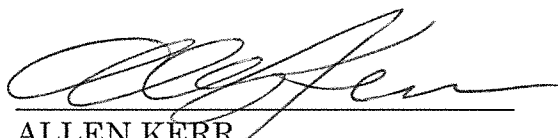
Russ Galbraith  
Chief Deputy Commissioner and  
Hearing Officer

CERTIFICATION

I, Allen Kerr, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law, and Recommendation of the Hearing Officer were made by and under my authority and supervision by Russ Galbraith, Chief Deputy Commissioner and Hearing Officer in this proceeding. I hereby adopt the Hearing Officer's Findings of Fact, Conclusions of Law and Recommendation in full, as set forth herein.

THEREFORE, it is hereby ORDERED that the Arkansas insurance producer license of Sara Smith be revoked.

IT IS SO ORDERED THIS 11<sup>th</sup> DAY OF FEBRUARY, 2016.



ALLEN KERR  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS