

**STATE OF MISSISSIPPI  
OFFICE OF THE COMMISSIONER OF INSURANCE**

**IN RE: GARY SPOONER, LICENSE NO. 9103133  
ADMINISTRATIVE PROCEEDING**

**FINAL ADMINISTRATIVE ORDER**

**THIS** matter came on for hearing before the Commissioner of Insurance of the State of Mississippi (Commissioner) in the offices of the Mississippi Insurance Department, 10th Floor, Woolfolk State Office Building, 501 North West Street, Jackson, Hinds County, Mississippi on Wednesday, June 1, 2016, at 10:00 a.m. on the Notice of Hearing regarding Gary Spooner ("Respondent"). This Hearing was conducted at the request of Respondent as a result of his Insurance Producer License application renewal being denied due to his violating Miss. Code Ann. § 83-17-71(1)(h) (Rev. 2011), by using fraudulent and/or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state by failing to provide required information for a renewal in a timely fashion for a license renewal. (Exhibit S-1)

**NOTICE AND HEARING**

Miss. Code Ann. Section 83-17-71(2) provides that if the Commissioner denies an application for a license, then the Applicant may demand a hearing to determine the reasonableness of the Commissioner's action which shall be held within thirty (30) days of the request. Respondent made such request.

On May 12, 2016, the Commissioner, pursuant to Miss. Code Ann. § 83-17-71, gave the

required notice (Exhibit S-2) to the Respondent of the Commissioner's intention to hold a hearing in response to the recommendation that his Insurance Producer License application renewal request be denied based upon an investigation conducted by MID Investigator, Kyle Jones.

(Exhibit S-3)

### **FINDINGS OF FACT**

1. On or about April 26, 2011, Respondent submitted a Letter of Acceptance, Waiver and Consent (AWC) to the Financial Industry Regulatory Authority, FINRA, a Self-Regulatory Organization. In that letter, Respondent admitted to selling 62 equity-indexed annuities outside the scope of Respondent's employment for premiums of \$4,971,680.27 and commissions of at least \$260,250.95. (Exhibit S-1, Attachment 1)
2. As part of that AWC, Respondent consented to a two-year suspension in all capacities with any FINRA firm and a \$15,000 fine.
3. On or about July 8, 2013, a FINRA Dispute Resolution Arbitration Panel (11-04569) was held to which Respondent chose not to appear. That Panel found that Respondent sold four annuities which violated the FINRA Suitability Rule 2310 and determined that Respondent owed fines and damages in the approximate amount of \$285,728.94 + fees to the Claimants. (Exhibit S-5, Attachment A)
4. On or about July 12, 2013, Respondent received Notice of his full termination from Securities Service Network effective April 26, 2011, for violating firm policy by selling unapproved equity index annuity contracts and utilizing an unapproved marketing organization and general agent to conduct business. (Exhibit S-5, Attachment A)

5. On or about January 16, 2014, FINRA notified Respondent that his license suspension would continue for failing to comply with the award rendered in the Dispute Resolution Panel (Paragraph #3) and failing to respond to a FINRA request for information. (Exhibit S-4)
6. On or about July 3, 2014, Respondent received Notice of a Civil Action against Respondent in the Hinds County Circuit Court, First Judicial District, for relief resulting from the Dispute Resolution Arbitration Panel (Paragraph #3) in the amount of \$269,803. (Exhibit S-5)
7. On June 25, 2015, Respondent submitted his license renewal request to the Mississippi Insurance Department (MID). (Exhibit S-6)
8. On Respondent's license renewal, Question 4, Respondent properly responded that he had previously been named/involved as a party in an administrative proceeding regarding Respondent's professional/occupational license. Respondent did not submit the requested supporting information with the renewal. (Exhibit S-6)
9. The MID requested this explanatory information either by certified mail or in person in December, 2015, January, 2016, February, 2016, and March, 2016. (Exhibits 7,8,9,10)
10. On or about March 30, 2016, 9 months after Respondent's license renewal request, Respondent hand delivered the required explanation of events to the MID. (Exhibit S-11)
11. No evidence has been presented that shows where Respondent has paid any of the fines or damages levied for his actions (\$15,000 or \$269,803).
12. Respondent stated in the Hearing that he has no intention of paying either of the fines. (Audio Recording)
13. Respondent submitted four letters of support from former customers. (R-1,2,3,4)

## CONCLUSIONS OF LAW

Respondent violated Miss. Code Ann. § 83-17-71(1)(h) (Rev. 2011) through incompetence, untrustworthiness or financial irresponsibility in the conduct of business as described below:

- a. Respondent failed to provide the required information in a timely fashion prior to his Producer License expired demonstrating incompetence.
- b. In 2011, Respondent consented to the terms of an Acceptance, Waiver and Consent (AWC) to the Financial Industry Regulatory Authority, FINRA, a Self-Regulatory Organization where he admitted to selling 62 equity-indexed annuities outside the scope of Respondents employment for premiums of \$4,971,680.27 and commissions of at least \$260,250.95. As part of that AWC, Respondent consented to a two-year suspension in all capacities with any FINRA firm and a \$15,000 fine. Respondent has not paid any amount of that fine and stated that he does not intend to do demonstrating incompetence, unreliability or financial irresponsibility in the conduct of business.
- c. In 2013, Respondent chose not to appear at a FINRA Dispute Resolution Arbitration Panel which found that Respondent sold four annuities which violated the FINRA Suitability Rule 2310 and determined that Respondent owed fines and damages in the approximate amount of \$285,728.94 + fees to the Claimants. Respondent has not paid any amount of that fine and stated that he does not intend to do demonstrating incompetence and unreliability or financial irresponsibility in the conduct of business.

## ORDER

**IN LIGHT OF THE AFOREMENTIONED** Findings of Fact, the Commissioner of




Insurance finds that Respondent, Gary Spooner, violated Miss. Code Ann. § 83-17-71(1)(h) as described above.

**IT IS, THEREFORE, ORDERED:**

That the license renewal application of Respondent, Gary Spooner, to act as an insurance producer in the State of Mississippi is hereby denied, effective August 31, 2015.

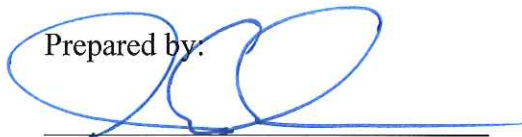
**SO ORDERED**, this the 6<sup>th</sup> day of June, 2016.

  
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**MIKE CHANEY**  
**COMMISSIONER OF INSURANCE**  
**STATE OF MISSISSIPPI**

Submitted by:

  
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Christina Kelsey  
HEARING OFFICER

Prepared by:

  
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John W. Eads  
Special Assistant Attorney General