

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

**IN THE MATTER OF TOMMY B. BROOKS  
INSURANCE PRODUCER LICENSE #7702639**

**FINDINGS AND ORDER**

**THIS CAUSE** came on for hearing before the Commissioner of Insurance of the State of Mississippi (hereinafter “Commissioner”), by and through his specially designated appointee (hereinafter “Hearing Officer”), in the Office of the Commissioner, 10<sup>th</sup> Floor, Woolfolk State Office Building, 501 North West Street, Jackson, MS 39205, on Wednesday, December 28, 2016, at 10:00 a.m. , pursuant to a Notice of Hearing and Statement of Charges personally served on Tommy B. Brooks, License #7702639 (Respondent). The Commissioner, by and through the designated Hearing Officer, Mr. Brandon White, having heard and considered all of the testimony and evidence produced by the parties herein, makes the following findings:

**AUTHORITY**

The hearing was held pursuant to the provisions of Miss. Code Ann. § 83-17-71, *et seq.* (Rev. 2011), providing for the licensing of insurance producers by the Mississippi Insurance Department (MID) and disciplinary actions against producers.

**NOTICE AND HEARING**

1. The Notice of Hearing and Statement of Charges was personally served upon Respondent on December 7 , 2016 pursuant to Miss. Code Ann. § 83-17-71 (Rev. 2011). (Exhibit S-2)
2. Respondent was advised in the “Notice of Hearing and Statement of Charges” of his right to be accompanied and represented by legal counsel, to cross-examine any witnesses, to present

evidence or testimony on his behalf, to have witnesses subpoenaed in order to give testimony and evidence on his behalf and to testify in his own behalf. (Exhibit S-1)

3. Pursuant to said notice a hearing was held at approximately 10:00 a.m. on December 28, 2016..
4. Respondent did not appear for the hearing;
5. The Respondent was specifically charged with the following violations of law in the Notice of Hearing and Statement of Charges dated November 29, 2016:

- a. Miss. Code Ann. § 83-17-71(1) (d) (Rev. 2011), by improperly withholding, misappropriating or converting monies received in the course of doing insurance business in that he collected an annual premium from Stephanie Zanders for windstorm coverage but never remitted the money to the MS Windstorm Underwriting Association. (Exhibits S-3, S-4 and S-5).
- b. Miss. Code Ann. §83-17-71(1)(d) (Rev. 2011) by improperly withholding misappropriating or converting monies received in the course of doing insurance business in that he collected premium payments from Elizabeth M. Matthis for flood insurance, wind and fire coverage but never remitted the money to The Hartford (flood) nor the MS Windstorm Underwriting Association. (Exhibits S-6, S-7 and S-8).
- c. Miss. Code Ann. §83-17-71(1)(d) (Rev. 2011) by improperly withholding, misappropriating or converting monies received in the course of doing business in that he collected premium payments from Sabino Corona and Gloria Alonzo for flood, fire and windstorm coverages but never remitted the money to the MS Windstorm Underwriting Association. (Exhibits S-9, S-10 and S-11).
- d. Miss. Code Ann. §83-17-71(1)(d) (Rev. 2011) by improperly withholding, misappropriating or converting monies received in the course of doing business in that

he collected premium payments from Pablo Benitez and Julia Morales Felipe for flood, fire and windstorm coverages but never remitted the money to the MS Windstorm Underwriting Association. (Exhibits S-12, S-13 and S-14).

### **FINDINGS OF FACT**

1. Respondent holds Mississippi insurance producer license No. 7702639
2. On or about September 1, 2016, MID Investigator, Octavius Sample began an investigation into the Respondent's business practices. Mr. Sample testified in detail that the complainants each produced a premium receipt confirming that they had made premium payments (S-4, S-7, S-10 and S-13).
3. Brad Little, Executive Director for MS Windstorm Underwriting Association confirmed that that they did not receive the premiums referenced above (S-5, S-8, S-11 and S-14).
4. Octavius Sample also testified that at the time three of the offenses occurred that Respondent was under a FINDINGS AND ORDER from the Commissioner of Insurance, which had placed him on probation for one year, effective April 9, 2015. (S-15)
5. Respondent did not appear before the Hearings Officer nor did he submit any evidence.

### **CONCLUSIONS OF LAW**

1. The Commissioner has jurisdiction over this matter pursuant to Miss. Code Ann. § 83-17-71, *et seq.* (Rev. 2011), providing for the licensing of insurance producers by the MID and specifically providing for disciplinary actions against producers.
2. MID gave proper notice of the hearing and has fulfilled all relevant substantive and procedural requirements of law or rule.
3. MID Regulation Part I, Chapter 15, Rule 15.09, Para. L, Rules Regarding the Administrative Practice and Procedure before the Mississippi Insurance Department states the evidentiary

standard for the hearing as follows; “Irrelevant, immaterial, and unduly repetitious evidence shall be excluded. Any other evidence, oral or documentary, not privileged, may be received if it is a type commonly relied upon by reasonably prudent men in the conduct of their affairs.”

4. Statutes and regulations must be strictly construed in favor of the licensee. *McFadden V. Miss. State Board of Medical Licensure*, 735 So. 2d 145 (Miss. 1999).
5. Regarding the four charges of violating the provisions of Miss. Code Ann. § 83-17-71(1) (d) (Rev. 2011), the sworn testimony and documents admitted into evidence clearly established that the Respondent collected policy premiums from Stephanie Zanders, Elizabeth M. Matthis, Sabino Corona, Gloria Alonzo, Pablo Benitez and Julia Morales Felipe and did not forward those payments to the MS Windstorm Underwriting Association.. The Respondent thereby violated the provisions of Miss. Code Ann. § 83-17-71(1) (d) (Rev. 2011).
6. Miss. Code Ann. § 83-17-71(1) (Rev. 2011) provides that the Commissioner may “place on probation, suspend, revoke or refuse to issue or renew an insurance producer's license or may levy a civil penalty in an amount not to exceed One Thousand Dollars (\$1,000.00) per violation”.
7. The aforementioned violations by Respondent constitute sufficient grounds for the imposition of disciplinary action per Miss. Code Ann. § 83-17-71(1) (Rev. 2011).

### **ORDER**

#### **IT IS, THEREFORE, ORDERED:**


1. That the license of Respondent, Tommy B. Brooks, Insurance Producer License ##7702639, to act as an insurance producer in the State of Mississippi, is hereby revoked.
2. Furthermore, Respondent, Tommy B. Brooks shall be fined One Thousand

Dollars (\$1,000.00) for each of the four violations, totaling Four Thousand Dollars (\$4,000.00), said fine to be paid to the Mississippi Insurance Department immediately.


SO ORDERED, this the 24<sup>th</sup> day of January, 2017.

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

Submitted by:

  
\_\_\_\_\_  
Brandon White  
HEARING OFFICER

Prepared by:

  
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Donald L. Kilgore  
Special Assistant Attorney General