

**BEFORE THE MISSISSIPPI INSURANCE DEPARTMENT
FOR THE STATE OF MISSISSIPPI**

**IN RE: THOMAS MARTIN BOEKHOUT
 Insurance Producer and Surplus Lines License No. 10122973**

**ABC INSURANCE SERVICES, LLC
 Agency License No. 15016254**

AMENDED FINAL ADMINISTRATIVE ORDER

THIS CAUSE came on for hearing on Tuesday, November 30, 2021, at 10:00 a.m. CST before the Commissioner of Insurance for the State of Mississippi, by and through his specially designated appointee, Kim Causey (hereinafter “Hearing Officer”), via teleconference hearing, pursuant to Notice of Hearing dated September 17, 2021. Having received notice of the hearing, the Respondent, Thomas Martin Boekhout, individually and as representative for ABC Insurance Services, LLC, appeared via telephone and participated in the hearing. Mark Lampton, Senior Attorney for the Mississippi Insurance Department, represented the Mississippi Insurance Department. The State called one witness and introduced several items of documentary evidence, which were admitted as Exhibits S-1 through S-24. The Respondent provided testimony at the hearing, but called no other witnesses than himself. Respondent submitted documentary evidence, which were admitted as Exhibits R-1 through R-6. Based upon the documentary evidence and testimony, and upon the recommendation given by the Hearing Officer, the Commissioner makes the following Findings of Fact, Conclusions of Law, and Order:

I. AUTHORITY

Miss. Code § 83-17-71 (Violations; Penalties) provides that when 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 . . . for any one or more of the following causes:

- (b) Violating any insurance laws, or violating any regulation, subpoena or order of the commissioner or of another state's commissioner;
- (d) Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;
- (h) Using fraudulent, coercive or dishonest practices or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

Pursuant to *Miss. Code § 83-17-71 (3) (Supp. 2020)*, “[t]he license of a business entity may be suspended, revoked or refused if the commissioner finds, after hearing, that an individual licensee’s violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation and the violation was neither reported to the commissioner nor corrective action taken.”

Further, *Miss. Code § 83-17-71(4) (Supp. 2020)*, provides that in addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to a civil fine not to exceed One Thousand Dollars (\$1,000.00) per violation.

II. NOTICE AND HEARING

On September 17, 2021, the Commissioner, through his attorney, issued a Notice of Hearing to the Respondent(s), setting the matter for hearing on October 27, 2021 at 10:00 a.m. The Notice of Hearing and Statement of Charges were received by the Respondent via certified mail delivery on September 21, 2021. On October 27, 2021, at 10:00 a.m., the Respondent did appear and participate telephonically, and requested a continuance for the purpose of providing him additional time to retain an attorney. The Respondent’s request for continuance was granted, and the hearing was continued until November 30, 2021, at 10:00 a.m.

On November 30, 2021, at 10:00 a.m., the Respondent attended the hearing telephonically and acknowledged as follows: (1) that he received the Notice of Hearing and Statement of Charges, (2) that he understood the alleged charges against him, and (3) that he understood that he had a right to an attorney, and expressed that he was prepared and wished to go forward without an attorney representing him.

III. FINDINGS OF FACT

AFTER CONSIDERING all of the evidence presented, using the standard of proof of “clear and convincing evidence”, the Insurance Commissioner makes the following Findings of Fact:

(1) On or about January 15, 2021, Select Portfolio Servicing, Inc. issued a check from its escrow account, on behalf of Stephen and Belinda Clark, to ABC Insurance Services, LLC, in the amount of \$4,788.71, as insurance premiums due for a home owners policy with AllRisks, LTD. Said funds were processed into the bank account of ABC Insurance Services, LLC through checking deposit with Community Bank dated January 20, 2021. Respondent failed to forward said premium on to Appalachian Underwriters as necessary to pay for the policy. Respondent further improperly withheld such funds from Stephen and Belinda Clark by failing to reimburse them with the mishandled funds until April 3, 2021 (with checks processed through Community Bank on April 6, 2021). These findings are evidenced by the testimony of MID Investigator Octavius Sample, as well as Exhibits S-4, Exhibit S-5, Exhibit S-6, and Exhibit R-1. Respondent also testified that he intentionally withheld the Clark’s money for some period of time when he was angry at them.

(2) On or about January 13, 2021, Mark Perry paid \$1,848 to ABC Insurance Services, LLC as the premium due for a home-owners policy of insurance, with Winchester General Agency (Broker for Lloyds, London), for the Estate of Buford M. Perry. Respondent failed to

timely forward said premium on to Winchester General Agency, as necessary to pay for the policy, which resulted in the issuance of a Notice of Cancellation for the policy dated March 24, 2021. Respondent then forwarded to Winchester General Agency funds sufficient to pay the premium on April 1, 2021, which was not received in time to prevent cancellation of the policy. Respondent further improperly withheld such funds from Mark Perry and failed to reimburse him with the mishandled funds until at least April 22, 2021. These findings are supported by the testimony of MID Investigator Octavius Sample, Exhibit S-7, Exhibit S-8, Exhibit S-9, Exhibit S-10, Exhibit S-11, Exhibit S-12, Exhibit R-2, and Exhibit R-3. Respondent asserted that it is his normal practice to hold monies for a while, and then send several outstanding premium amounts at one time.

(3) On or about January 31, 2021, Winchester General Agency, Inc. issued a check to ABC Insurance Services, LLC in the amount of \$568.26, representing sums due to Bryan Baker and Cecelia Baker (“the Bakers”) upon cancellation of an insurance policy. Thomas Martin Boekhout signed the back of and deposited the check into ABC Insurance Services, LLC’s checking account on February 8, 2021. Respondent failed to pay said funds to the Bakers until at least April 23, 2021, which was after the filing of a complaint with the Mississippi Insurance Department. This conduct constitutes the improper withholding of said funds from the Bakers, who were clients of Respondent(s). These findings are supported by the testimony of MID Investigator Octavius Sample, Exhibit S-13, Exhibit S-14, Exhibit S-15, and Exhibit R-4. In Respondent’s testimony, he admitted he received the money and that there was a delay before turning it over to the Bakers, however, Respondent asserts he was not aware of the reason Winchester General Agency provided him the funds, and he took no steps to ascertain the reason for his receipt of such funds. Respondent admitted his own accounting practices need improvement.

(4) On or about March 9, 2021, Herbert E. Dye, Jr. paid the sum of \$2,289 to ABC Insurance Services, LLC as insurance premiums for a homeowners insurance policy through Appalachian Underwriters, Inc. Respondent failed to forward said premium to Appalachian Underwriters, Inc. until June 29, 2021, which was only 1 day before the policy was set to cancel due to non-payment of premiums. Respondent's failure to forward Mr. Dye's funds to Appalachian Underwriters, Inc. in a timely fashion constitutes an improper withholding of funds by Respondent. These findings are supported by the testimony of MID Investigator Octavius Sample, Exhibit S-16, Exhibit S-17, and Exhibit R-6.

(5) On or about November 9, 2020, Respondent's client, Cornelia Swayze, requested to cancel her insurance policy Lloyds (through AllRisks, LTD). The cancellation request was dated November 9, 2020. Respondent failed to submit the cancellation request for Ms. Swayze until June 19, 2021. These findings are supported by the testimony of MID Investigator Octavius Sample, Exhibit S-18, Exhibit S-19, Exhibit S-20, and Exhibit R-5.

(6) Respondent's bank records reflect his regular practice of commingling and mishandling of client premiums with funds he uses for unrelated business and personal expenses in a checking account with Community Bank. This finding is supported by the testimony of MID Investigator Octavius Sample, and the Respondent's bank records admitted as Exhibit S-21. Furthermore, Respondent testified that he does use his business account containing client funds as his own personal account. Some of the purchases for which Respondent identified using the account containing client funds included beer, cigarettes, gas, and food. Respondent asserted that he knows he shouldn't use his client funds account this way, but that he knows of other agents that do, and just didn't feel it was wrong. Respondent further asserted that he has hired an accountant to help him better track his financial matters.

(7) An Administrative Subpoena for Production of Documents was issued by the Commissioner of Insurance on April 16, 2021, which required Thomas Martin Boekhout and ABC Insurance Services, LLC to produce to the Mississippi Insurance Department the following:

Copies of any and all bank statements reflecting transactions, payments, and deposits of ABC Insurance Services, LLC with Community Bank in Biloxi, MS – Account # 7005010389. The bank statements requested are those from January 1, 2020 to present April 22, 2021. The documents requested should be forwarded to the Mississippi Insurance Department within (10) working days of the time of service.

Said Subpoena was served upon Agent Thomas Martin Boekhout on April 28, 2021. Respondent did fail to comply fully with said subpoena, and only produced to the Mississippi Insurance Department bank records for a period from January 1, 2021 through April 30, 2021. This finding is supported by the testimony of MID Investigator Octavius Sample, Exhibit S-22, and Exhibit S-23. The Community Bank records that were produced were admitted as Exhibit S-21.

(8) ABC Insurance Services, LLC, which has Thomas Martin Boekhout as its sole owner, member, manager, and officer, knew, or should have known, of the improper and unlawful conduct of Thomas Martin Boekhout, as described more fully in the herein-above findings of fact, and such conduct was neither reported to the commissioner nor corrective action taken. Consequently, pursuant to *Miss. Code § 83-17-71 (3) (Supp. 2020)*, the license of ABC Insurance Services, LLC is subject to revocation. A printout of ABC Insurance Services, LLC's corporate details filed with the Mississippi Secretary of State's Office, including the 2021 Annual Report, was admitted as Exhibit S-3.

IV. CONCLUSIONS OF LAW

IN LIGHT OF THE AFOREMENTIONED Findings of Fact, the Commissioner finds the following:

(1) That the Respondent, Thomas Martin Boekhout, violated the provisions of *Miss. Code § 83-17-71(1)(d) (Supp. 2020)* by improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business, as alleged in Charge 1 of the Notice of Hearing and Statement of Charges.

(2) That the Respondent, Thomas Martin Boekhout, violated the provisions of *Miss. Code § 83-17-71(1)(h) (Supp. 2020)* by demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state, as alleged in Charge 2 of the Notice of Hearing and Statement of Charges.

(3) That the Respondent, Thomas Martin Boekhout, violated the provisions of *Miss. Code § 83-17-71(1)(b) (Supp. 2020)* by violating a Subpoena issued by the State Insurance Commissioner, as alleged in Charge 3 of the Notice of Hearing and Statement of Charges.

(4) Pursuant to *Miss. Code § 83-17-71 (3) (Supp. 2020)*, the license of ABC Insurance Services, LLC is subject to revocation due to the failure of Thomas Martin Boekhout (its sole owner, member, manager, and officer) to report the circumstances herein to the Commissioner nor take any corrective action, as alleged in Charge 4 of the Notice of Hearing and Statement of Charges.

V. ORDER

IT IS, THEREFORE, ORDERED that that the Insurance Producer License granted to the Respondent, Thomas Martin Boekhout, under privilege license number 10122973, to act as

an insurance producer and surplus lines producer in the State of Mississippi, is hereby placed into **PROBATIONARY STATUS** for a period of two (2) years from the date of this Order. The conditions placed upon the continued authorized status for Respondent shall include:


- (a) The Respondent may not own, operate, or manage an insurance agency, and may only work as an agent for an agency having a responsible agent other than himself, who shall be in a supervisory capacity with respect to Respondent's professional activities.
- (b) The Respondent may not control or directly access the funds contained in client premium accounts. Furthermore, Respondent must ensure that all client premiums paid on account of any insurance he sells or solicits shall be kept in a separate account from any personal or business operating accounts for himself or the agency he works for, and the client premiums shall be separately accounted for in order to ensure they are protected and maintained for use as intended.
- (c) The Respondent shall ensure that all insurance transactions he performs for clients shall be completed in a timely and professional manner, including the forwarding of any premiums accepted on a client's behalf within 20 days of receipt by the agency, and the proper forwarding of any notices of cancellation, claims, or other client business within 20 days of the client's request and submission of proper forms.
- (d) The Respondent shall commit no violations of the insurance laws of this State.

IT IS FURTHER ORDERED that the Respondent, Thomas Martin Boekhout, is hereby assessed an administrative fine in the amount of One Thousand Dollars (\$1,000.00), which shall be due and payable to the Mississippi Insurance Department effective immediately.

IT IS FURTHER ORDERED, that the license of ABC Insurance Services, LLC, Agency License No. 15016254, should be and hereby is **REVOKED** effective immediately.


THIS AMENDED ORDER is being entered in the place and stead of that certain Final Administrative Order entered in this case on December 14, 2021, and said Final Administrative Order is hereby modified to the extent it is inconsistent with the provisions of this Amended Final Administrative Order.

SO ORDERED, this the 20th day of January, 20 .

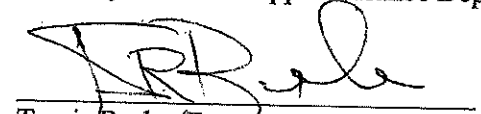


MIKE CHANEY
COMMISSIONER OF INSURANCE
STATE OF MISSISSIPPI

AGREED TO BY:



Mark I. Lampton
Attorney for Mississippi Insurance Department



Travis Burke, Esq.
Attorney for Thomas Martin Boekhout