TN- 0804072
NPN- 5952266

RECEIVED
2016 JUN 15 PM 1:13
SECRETARY OF STATE

STATE OF TENNESSEE
BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE

TENNESSEE INSURANCE DIVISION,	)	
Petitioner,	)	
	)	**Docket No. 12.04-135064J**
vs.	)	**TID No. 15-127**
	)	
LISA M. BOTT,	)	
Respondent.	)	

AGREED FINAL ORDER

The Insurance Division ("Division") of the State of Tennessee Department of Commerce and Insurance ("Department"), by and through undersigned counsel, and Lisa M. Bott ("Respondent") hereby stipulate and agree, subject to the approval of the Commissioner of the Tennessee Department of Commerce and Insurance ("Commissioner"), as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Agreed Final Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry of the Commissioner.

2. This Agreed Final Order is executed by the parties for the purpose of avoiding further administrative action with respect to this cause. The parties stipulate to entry of the Findings of Fact stated herein for the sole purpose of settling this matter. If the Commissioner does not accept this Order, then both parties expressly reserve the right to a hearing, with the opportunity for the Division to present all available evidence of alleged violations as contained in

the Notice of Hearing and Charges, and the opportunity for the Respondent to present any and all alleged factual and legal defenses to all matters raised in the Notice of Hearing and Charges. Furthermore, should this Agreed Final Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Agreed Final Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

3. Respondent fully understands that this Agreed Final Order will in no way preclude additional proceedings by the Commissioner for acts and/or omissions not specifically addressed in this Agreed Final Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. Other than this proceeding brought by the Commissioner for violations of Title 56 of Tennessee Code Annotated addressed specifically in this Agreed Final Order, Respondent fully understands that this Agreed Final Order will in no way preclude proceedings by state or local officers, agencies, or civil or criminal law enforcement authorities against Respondent for violations of law under statutes, rules, or regulations of the State of Tennessee, which may arise out of the facts, acts, or omissions contained in the Findings of Fact and Conclusions of Law stated herein, or which arise as a result of the execution of this Agreed Final Order by Respondent.

5. Respondent expressly waives all further procedural steps, and expressly waives rights to seek judicial review of or to otherwise challenge or contest the validity of this Agreed Final Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Agreed Final Order by the Commissioner.

AUTHORITY AND JURISDICTION

6. The Commissioner has jurisdiction over this matter pursuant to the Tennessee Insurance Law ("Law"), Title 56 of the Tennessee Code Annotated, specifically Tenn. Code Ann. §§ 56-1-101, 56-1-202, 56-2-305 and 56-6-112. The Law places on the Commissioner the responsibility of the administration of its provisions.

PARTIES

7. The Division is the lawful agent through which the Commissioner administers the Law and is authorized to bring this action for the protection of the public.

8. Respondent is a citizen of the State of Tennessee, with an address of record on file with the Division of 116 Cedar Brook Circle, Bristol, TN 37620-6705. Respondent holds a Tennessee resident insurance producer license, number 0804072, which became active on or about August 4, 2014, and which is scheduled to expire on December 31, 2016.

FINDINGS OF FACT

9. From approximately August 2014 through February 11, 2015, Respondent was employed by the office of State Farm Insurance Agent Paul Clark, Jr., located at 3616 Netherland Inn Road, Bristol, TN 37660.

10. On or around late January or early February 2015, concerns began to arise regarding a number of deleted cash premium payments from policyholders received by the Paul Clark agency dating back to October of 2014.

11. After conducting investigations, State Farm Insurance and Agent Clark's office determined that on twelve (12) occasions between October 8, 2014, and January 13, 2015,

Respondent deleted and misappropriated a total of $1,529.54 in cash premium payments received by the Paul Clark State Farm agency from eleven (11) policyholders.

12. The smallest amount Respondent misappropriated was $35.72, and the largest amount was $288.88. In most instances, Respondent paid back these deleted and misappropriated amounts within a week to ten (10) days, but in some instances, several months elapsed before Respondent paid certain amounts back to Mr. Clark's office.

13. Agent Clark terminated Respondent's employment on February 11, 2015.

14. Respondent did not pay back the entire amount of her misappropriations until she delivered a $339.32 check to Mr. Clark's office on May 18, 2015.

15. On December 21, 2015, the Division, through counsel, filed a Notice of Hearing and Charges against the Respondent relating to her deletions and misappropriations of policyholders' cash premium payments as set forth above.

CONCLUSIONS OF LAW

16. Respondent's actions as set forth above in the foregoing Findings of Fact, have violated TENN. CODE ANN. §§ 56-6-112(a)(4) & (a)(8) (2011), which read as follows:

> (a) The commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license issued under this part or may levy a civil penalty in accordance with this section or take any combination of those actions, for any one (1) or more of the following causes:
>
> ....
>
> (4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
>
> ....
>
> (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

17. Respondent's violations of TENN. CODE ANN. §§ 56-6-112(a)(4) & (a)(8), constitute grounds for the imposition of lawful discipline, including the assessment of civil penalties, as prescribed at TENN. CODE ANN. §§ 56-6-112(g)(1), (2) & (3), which read as follows:

> (g) If . . . . the commissioner finds that any person required to be licensed, permitted, or authorized by the division of insurance pursuant to this chapter has violated any statute, rule or order, the commissioner may, at the commissioner's discretion, order:
>
> (1) The person to cease and desist from engaging in the act or practice giving rise to the violation;
>
> (2) Payment of a monetary penalty of not more than one thousand dollars ($1,000) for each violation, but not to exceed an aggregate penalty of one hundred thousand dollars ($100,000). This subdivision (g)(2) shall not apply where a statute or rule specifically provides for other civil penalties for the violation. For purposes of this subdivision (g)(2), each day of continued violation shall constitute a separate violation; and
>
> (3) The suspension or revocation of the person's license.

18. Based upon the above Findings of Fact and Conclusions of Law, the Commissioner considers that the Respondent's actions warrant the imposition of lawful discipline, to include assessment of a civil penalty in accordance with Tenn. Code Ann. § 56-6-112(g)(1), (2) & (3).

19. In order to avoid further expenses or costs associated with additional administrative litigation of this matter or judicial review, Respondent hereby acknowledges the Commissioner's authority to administer the statutes cited herein, concedes that the Commissioner's interpretation of the statutes cited in the Conclusions of Law are reasonable and enforceable, and agrees to the entry of this Agreed Final Order including each of the following sanctions ordered by the Commissioner.

ORDER

NOW, THEREFORE, on the basis of the foregoing, and Respondent's waiver of the right to a hearing and appeal under the Act and the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101 to 4-5-404 (2011), and Respondent's admission of jurisdiction of the Commissioner, the Commissioner finds that Respondent, for the purpose of settling this matter, admits the Findings of Fact and Conclusions of Law, agrees to the entry of this Agreed Final Order and agrees that this Order is in the public interest and is consistent with the purposes fairly intended by the Act.

IT IS ORDERED, pursuant to TENN. CODE ANN. § 56-6-112(g) that:

1. Respondent's Tennessee resident insurance producer license (No. 0804072) **is hereby REVOKED.**

2. Respondent **is ASSESSED a CIVIL PENALTY** in the amount of two thousand five hundred dollars ($2,500.00).

3. Payment to the Department of a one thousand dollar ($1,000.00) initial deposit on this civil penalty assessment shall be delivered on or before the close of business on June 1, 2016, and payment shall be mailed to:

State of Tennessee
Department of Commerce and Insurance
Insurance Division
Attn: Assistant Commissioner for Insurance
500 James Robertson Parkway
Nashville, TN 37243

4. Payment to the Department of the one thousand five hundred dollar ($1,500.00) balance on this civil penalty and costs assessment shall be delivered on or before the close of business on February 1, 2017, and shall be mailed to the same address as included in numbered paragraph 3 above.

5. All persons in any way assisting, aiding, or helping Respondent in any of the aforementioned violations of Tenn. Code Ann. § 56-6-112 shall **CEASE AND DESIST** from all such activities in violation of the Law.

IT IS ORDERED that this Agreed Final Order represents the complete and final resolution of, and discharge with respect to all administrative and civil, claims, demands, actions and causes of action by the Commissioner against Respondent for violations of Tenn. Code Ann. §§ 56-6-112(a)(4) & (a)(8) alleged by the Division to have occurred with respect to the transactions involving the facts contained herein.

This Agreed Final Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties, and is for settlement purposes only. By the signatures affixed below, Respondent affirmatively states she has freely agreed to the entry of this Agreed Final Order, that she waives the right to a hearing on the matters underlying this Agreed Final Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made to her by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Agreed Final Order, affirmatively state their agreement to be bound by the terms of this Agreed Final Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of the settlement as set forth in this Agreed Final Order, are binding upon them.

ENTERED this 13th day of June, 2016.

Julie Mix McPeak, Commissioner
TN Department of Commerce and Insurance

APPROVED FOR ENTRY:

Lisa M. Bott, Respondent
116 Cedar Brook Circle
Kingsport, TN 37620-6705

Michael Humphreys
Assistant Commissioner for Insurance
TN Department of Commerce and Insurance

Douglas Berry, BPR# 6927
Attorney for Respondent
Miller & Martin PLLC
401 Commerce Street, Suite 720
Nashville, TN 37219
Phone: (615) 744-8620
Doug.Berry@millermartin.com

Jesse D. Joseph, BPR # 10509
Assistant General Counsel
TN Department of Commerce and Insurance
500 James Robertson Parkway
Nashville, Tennessee 37243
Phone:(615) 253-4701/ Fax: (615) 741-4000
Jesse.Joseph@tn.gov

Filed in the Office of the Secretary of State, Administrative Procedures Division, this 15 day of June, 2016.

J. Richard Collier, Esq., Director, Administrative Procedures Division