0902085

BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE FOR THE STATE OF TENNESSEE

TENNESSEE INSURANCE DIVISION, Petitioner,	)	
v.	)	No.: 12.01-092216J 06-019
OBED W. KIRKPATRICK, SR., Respondent.	)	

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AGREED ORDER

WHEREAS, Respondent, Obed W. Kirkpatrick, Sr., hereby stipulates and agrees, subject to the approval of the Commissioner of Commerce and Insurance (hereinafter referred to as the "Commissioner") as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Agreed 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 Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Agreed Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Agreed Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of this matter or any administrative proceedings.

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

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facts or transactions herein addressed. Respondent further understands that the acts or omissions addressed in this Agreed Order may be used by the Commissioner in denying any application for a insurance producer license which the Respondent may submit in the future.

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

FINDINGS OF FACT

5. The Tennessee Insurance Law, as amended, Tenn. Code Ann. §§ 56-1-101, *et seq.* (hereinafter referred to as the "Law"), places the responsibility for the administration of the Law on the Commissioner. The Insurance Division of the Department of Commerce and Insurance (hereinafter referred to as the "Division") is the lawful agent through which the Commissioner discharges this responsibility.

6. The Respondent, Obed W. Kirkpatrick, Sr., is a citizen of Tennessee and a resident of Franklin, with his mailing address being 1705 Rocking Chair Place, Franklin, Tennessee 37067, and at all times relevant to the events herein has been licensed by the Division to sell insurance in this state, having obtained said license, numbered 902085, in 2003.

7. On or about December 16, 2002, the Respondent entered into a Memorandum of Understanding allowing the Respondent to participate in Pre-trial Diversion, for a violation of Tenn. Code Ann. § 39-16-302, impersonation of a professional. The Circuit/Criminal Court of Williamson County, Tennessee suspended the case for two (2) years, during which time the Respondent would be

placed on supervised probation. The Memorandum of Understanding states that the Respondent was eligible for dismissal of this case following completion of the agreed upon sentence and provided that Respondent not commit any offence, pay all court costs and probation fees and adhere to all standard conditions of probation.

8. On or about December 5, 2003, the Respondent completed the "Uniform Application for Resident Individual Insurance Producer License" (hereinafter referred to as the "Application") to be licensed as an insurance producer in the State of Tennessee.

9. Question One on the Application reads, "Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?"

10. The Respondent answered Question One of the Application by checking the box labeled "no."

11. On or about April 30, 2003, the Respondent was indicted by the Circuit Court of Calloway County, Kentucky on twelve (12) Counts of Felony Theft by Failure to Make Required Disposition.

12. On or about April 30, 2003, the Respondent was indicted by the Circuit Court of Calloway County, Kentucky on twelve (12) Counts of Misdemeanor Theft by Failure to Make Required Disposition.

13. On or about April 30, 2003, the Respondent was indicted by the Circuit Court of Calloway County, Kentucky on one (1) Count of being a Persistent Felony Offender in the Second Degree.

14. On or about October 20, 2004, Respondent completed the "Renewal Application" (hereinafter referred to as the "Renewal") to maintain his license as an insurance producer in the

State of Tennessee.

15. Question One on the Renewal reads, "Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?"

16. The Respondent answered Question One of the Renewal by checking the box labeled "no."

17. On or about November 21, 2005, Respondent completed the Renewal to maintain his license as an insurance producer in the State of Tennessee.

18. Question One on the Renewal reads, "Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?"

19. The Respondent answered Question One of the Renewal by checking the box labeled "no."

CONCLUSIONS OF LAW

20. Tenn. Code Ann. § 56-6-112(a)(1) provides, in pertinent part, that the Commissioner may revoke a license if the licensee provides incorrect, misleading, incomplete, or materially untrue information in the license application.

21. The facts stated in Paragraphs 1-19, above, demonstrate that the Respondent has provided materially untrue information on license applications on three (3) separate occasions. Each such instance provides a ground for an order revoking the Respondent's license in accordance with Tenn. Code Ann. § 56-6-112(a)(1).

ORDER

NOW THEREFORE, on the basis of the foregoing, and the wavier of the Respondent of his rights to a hearing and appeal under Tennessee Insurance Law and Tennessee's Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.*, and the admission by the Respondent of the jurisdiction of the Commissioner, the Commissioner finds that the Respondent has consented to the entry of this Order and that the following Order is appropriate, and in the public interest.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 56-6-112(a) of the Tennessee Insurance Law that:

The insurance agent license, numbered 902085, held by the Respondent, Obed W. Kirkpatrick, Sr., is hereby **REVOKED**.

This Agreed 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 his signature affixed below, Obed W. Kirkpatrick, Sr., affirmatively states that he has freely agreed to the entry of this Agreed Order, that it has been advised that he may consult legal counsel in this matter, and has had the opportunity to consult with legal counsel should he have desired to do so, that he waives his right to a hearing on the matters underlying this Agreed 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 by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Agreed Order, affirmatively state their agreement

to be bound by the terms of this Agreed Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Agreed Order, are binding upon them.

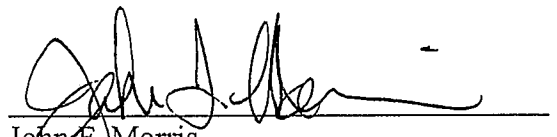
SO ORDERED.

Entered this the 15th day of February, 2007.

Leslie A. Newman

Leslie A. Newman, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:



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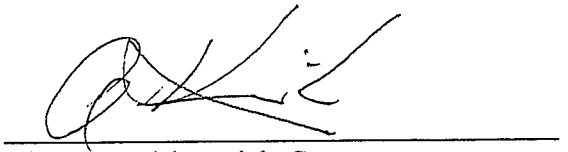
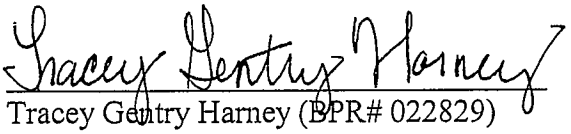


Obed W. Kirkpatrick, Sr.
Respondent



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