

4. Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against Respondent for acts and/or omissions not specifically addressed in this Consent Order or for acts and/or omissions that do not arise from the facts or transactions herein addressed. Respondent also understands that this Consent Order may be used by the Commissioner or any Commissioner, Department or Board to revoke or refuse to issue any license Respondent currently holds or for which Respondent applies in the future.

5. 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 this Consent Order, the stipulation and imposition of discipline contained herein and the consideration and entry of said Consent Order by the Commissioner.

JURISDICTION

6. The Commissioner has jurisdiction pursuant to the Tennessee Insurance Law (the "Law"), TENN. CODE ANN. § 56-6-101 *et seq.*, and the Law places the responsibility for the administration of the Law on the Commissioner.

PARTIES

7. The Insurance 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. Respondent is a citizen and resident of Tennessee, residing at 6605 Silverbriar Court, Bartlett, Tennessee 38184 and, at all times relevant to the events herein, has been licensed by the Insurance Division to sell insurance in this state as an insurance producer, having obtained said license, numbered 38951, in 1982.

FINDINGS OF FACT

8. On approximately April 20, 2007, Respondent received an appointment to sell insurance for American Family Life Assurance Company ("Aflac"). Through Aflac's Associate Bonus Club, Respondent was aware that he was eligible to receive commissions on Aflac insurance policies sold by any Aflac agent he recruited. On April 23, 2007, he recruited Heather Frazier Holland ("Holland"), his daughter, to sell Aflac insurance policies to enable him to receive commissions on her sales.

9. Between December 2007 and April 2008, Holland submitted to Aflac approximately two hundred thirty three (233) fraudulent insurance applications and two hundred thirty three (233) fraudulent Payment Authorization Agreements in the names of fifteen (15) identified individuals and forty three (43) unidentified individuals, thereby permitting her to receive forty-nine thousand one hundred fifty dollars and twenty-two cents (\$49,150.22) in advanced commissions.

10. Frazier received commission payments directly from Aflac based on Holland's insurance sales.

11. Some fraudulent applications and Payment Authorization Agreements listed Respondent's residential address as well as a P.O. Box leased by him.

12. Respondent attempted to thwart the Department's investigation into Holland's activities by suggesting to Richard Frazier and William Smith that they had authorized the purchase of Aflac insurance in their names by signing the electronic signature pad although they had not. Respondent also instructed Brian Thompson to not answer any telephone calls originating in Nashville.

13. Finally, Respondent allowed William Smith's credit card information, which he was authorized to possess for a limited purpose unrelated to these allegations, to be listed on some Payment Authorization Agreements submitted by Holland.

CONCLUSIONS OF LAW

14. TENN. CODE ANN. § 56-6-112(a)(8) (Supp. 2007) provides that the Commissioner ~~may place on probation, suspend, revoke or refuse to issue or renew a license and/or may levy a~~ civil penalty for anyone who uses fraudulent, coercive or dishonest practices or demonstrates incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

15. Based on the Findings of Facts cited above, the Commissioner finds that Respondent demonstrated incompetence or untrustworthiness in the conduct of business in this state.

16. Such facts constitute grounds for an Order placing Respondent's insurance producer license on probation for one (1) year and assessing a civil penalty in the amount of two thousand dollars (\$2,000) based on violations of TENN. CODE ANN. § 56-6-112(a)(8) (Supp. 2007).

17. Respondent neither admits nor denies the Findings of Fact but concedes that the Conclusions of Law contained herein are fair and reasonable. Respondent enters this Consent Order solely to avoid further administrative action with respect to this cause.

ORDER

NOW, THEREFORE, based on the foregoing and the waiver of Respondent of his rights to a hearing and appeal under the Law and Tennessee's Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101 *et seq.* and the admission by Respondent of the jurisdiction of the Commissioner, the Commissioner finds that Respondent has agreed to the entry of this Consent Order and that this Consent Order is appropriate and in the public interest.

IT IS ORDERED, pursuant to TENN. CODE ANN. § 56-6-112(a) (Supp. 2007), that:

The insurance producer license, numbered 38951, issued to Gary Frazier, is hereby placed on probation for a period of one (1) year.

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

Gary Frazier be assessed a civil penalty in the amount of two thousand dollars (\$2,000),

~~which is to be paid in the Department's Education Fund.~~

TERMS OF PROBATION

The one (1) year period of probation shall begin on the date the Commissioner signs this Consent Order.

During the one (1) year period Respondent's insurance producer license is on probation, Respondent shall be required to make monthly payments in the amount of one hundred sixty-six dollars and sixty-seven cents (\$166.67) towards the civil penalty. Respondent's first monthly payment shall be due within seven (7) days from date the Commissioner signs this Consent Order.

Subsequent monthly payments from Respondent shall be due on the same date each subsequent month from the date the Commissioner signs this Consent Order. Failure by Respondent to timely make any due monthly payments is a violation of probation.

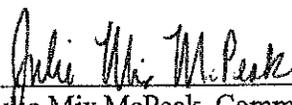
During the one (1) year period Respondent's insurance producer license is on probation, Respondent shall be permitted to fully engage in the business of insurance while complying with all applicable insurance laws, rules and regulations. If, during the one (1) year probation, the Department determines that Respondent has violated any law, rule or regulation or fails to timely make all due monthly payments towards the civil penalty, the Department may, in its sole discretion, reinstate all causes of action alleged in or associated with the causes of action outlined in the Findings of Facts, above, including seeking applicable civil penalties, regardless of the action the Department takes, if any, on any new violation of any law, rule or regulation. Respondent shall not be entitled to any refund, repayment or to otherwise demand a return of any payments made towards the civil penalty regardless of the manner in which the one (1) year period of probation ends.

If, however, after the one (1) year probation, the Department determines that no new violations of any law, rule or regulation have occurred and Respondent has timely made all due monthly payments towards the civil penalty—and the civil penalty has been paid in full—the Department shall terminate Respondent's probation.

This Consent 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 signature affixed below, Gary Frazier, affirmatively states that he has freely agreed to the entry of this Consent Order, that he has been advised that he may consult with legal counsel in this matter, that he waives the right to a hearing on the matters underlying this Consent Order and that no threats or promises of any kind have been made by the Commissioner, the Insurance Division or any agent thereof. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Consent Order, are binding upon them.

SO ORDERED.

ENTERED this the 26th day of January, 2012.



Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

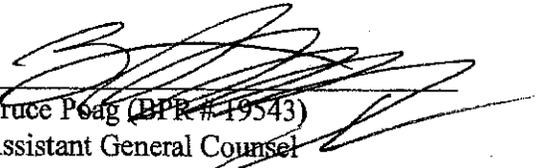
APPROVED FOR ENTRY:



Larry C. Knight, Jr.
Assistant Commissioner for Insurance
Department of Commerce and Insurance



Gary Frazier
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