Agent # 0843289

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

TENNESSEE INSURANCE DIVISION,	)	
	)	
Petitioner,	)	
	)	
vs.	)	**No.: 12.01-0767815J**
	)	
SHARON K. MIRACLE,	)	
	)	
Respondent.	)	

AGREED ORDER

WHEREAS, Petitioner, the Tennessee Insurance Division (hereinafter referred to as the "Division"), and the Respondent, Sharon K. Miracle (hereinafter referred to as the "Respondent"), hereby stipulate and agree, 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. The Commissioner has determined that the resolution set forth in this Agreed Order is fair and reasonable, and in the best public interest.

3. 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 these proceedings.

4. 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 facts or transactions herein addressed.

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 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

6. The Commissioner of the Department of Commerce and Insurance for the State of Tennessee (hereinafter referred to as the "Commissioner") has jurisdiction pursuant to the Tennessee Insurance Law (hereinafter referred to as the "Law"), Tennessee Code Annotated, Title 56; specifically Tennessee Code Annotated Sections 56-1-202, and 56-6-112; and that the Law places the responsibility for administration of its provisions on the Commissioner.

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

8. The Respondent is a citizen and resident of the State of Tennessee, residing at 4316 Roaming Road, Knoxville, Tennessee 37912.

9. The Respondent has an insurance producer's license, numbered 843289, issued on or about March 20, 2001.

10. On or about September 20, 2001, Respondent visited Dr. Fred Bennett complaining of frequent episodes of lightheadedness, dizziness, shaking tremors and sweating.

Diagnoses included hypothyroidism, benign hypertension, and depression. Treatment included continuing with her prescription medications.

11. On or about October 16, 2001, Respondent visited the office of Dr. Fred Bennett complaining of increased anxiety. Diagnoses included depression, anxiety, fatigue and benign hypertension. Treatment included a prescription for Celexa.

12. On or about November 9, 2001, Respondent visited the office of Dr. Fred Bennett for medical testing. Respondent's medical history included a hysterectomy in June 2000.

13. On or about April 4, 2002, Respondent visited Dr. Fred Bennett to follow up on her University of Tennessee Hospital emergency room visit for pneumonia. Diagnoses included resolving pneumonia, insomnia and benign hypertension. Treatment included a prescription for Valium and to continue with her current prescription medications.

14. On or about August 9, 2002, Respondent visited Dr. Stephen Hoadley for a cardiac consultation complaining of palpitations and to assess any possible effects on her heart caused by the prescription medication Phen-Fen she had taken two (2) or three (3) years prior. Respondent's past and present health included a history of high blood pressure, carpal tunnel release, having been told by a doctor five (5) or six (6) years prior that she had a heart murmur, a history of ulcers eight (8) years prior, a blood clot in her lung twenty-five (25) years prior, tonsillectomy, frequent backaches, and current use of at least five (5) prescription medications. Dr. Hoadley's tests suggested Respondent had mild hypertensive cardiovascular disease.

15. On or about November 19, 2002, Respondent completed her own application for life insurance through American Republic Insurance Company. The Respondent answered 'no' to each and every question on the lists of medical and general history questions on the application. The negative responses indicated that the Respondent had never had trouble with

her reproductive system, her joints, dizziness, tonsillitis, hypothyroidism, heart trouble, high blood pressure, ulcers, pneumonia, blood or blood vessel problems, back pain, and that she had not taken nor been prescribed any prescription medications within the past three (3) years and had not gone to a doctor or a hospital within the past five (5) years.

16. On or about January 16, 2003, American Republic Insurance Company terminated its insurance producer contract with Respondent because of Respondent's dishonest and fraudulent entries on her life insurance application, which Respondent acknowledged.

CONCLUSIONS OF LAW

17. Tenn. Code Ann. § 56-6-112(a)(8) provides, in pertinent part, that the Commissioner may revoke or suspend a license issued under this part or may levy a civil penalty in accordance with subsection (e) or take any combination of such actions if she finds that a licensee has used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

18. Based upon the Findings of Fact stated above, the Commissioner finds that Respondent used fraudulent and dishonest practices and demonstrated untrustworthiness in the conduct of business in this state when she falsely and fraudulently answered 'no' to all of the medical and general history questions on her own application for life insurance in an effort to obtain coverage and that grounds exist for an order revoking or suspending Respondent's license pursuant to Tenn. Code Ann. § 56-6-112(a)(8) and assessing civil penalties in accordance with Tenn. Code Ann. § 56-6-112(e).

19. Tenn. Code Ann. § 56-6-112(a)(2) provides, in pertinent part, that the Commissioner may revoke or suspend a license issued under this part or may levy a civil penalty in accordance with subsection (e) or take any combination of such actions, if she finds that a licensee has violated any law, rule, regulation, subpoena or order of the Commissioner.

20. Tenn. Code Ann. §§ 56-53-103(a)(1) and (b) provide, in pertinent part, that it shall be unlawful for any person to present to an insurer, by or on behalf of an insured, claimant or applicant, or insurance professional, any information which the person knows to contain false representations as to any material fact, or to withhold or conceal a material fact concerning the application for any insurance policy, in that such is an unlawful insurance act.

21. Based upon the Findings of Fact stated above, the Commissioner finds that Respondent, as the applicant and the insurance professional, presented to American Republic Insurance Company an application for insurance coverage which she knew contained false representations as to her medical and general history and withheld material facts regarding her medical and general history and that grounds exist for an order revoking or suspending the Respondent's license in accordance with Tenn. Code Ann. § 56-6-112(a)(2) and assessing civil penalties in accordance with Tenn. Code Ann. § 56-6-112(e).

22. Tenn. Code Ann. § 56-6-112(a)(2) provides, in pertinent part, that Commissioner may revoke or suspend a license issued under this part or may levy a civil penalty in accordance with subsection (e) or take any combination of such actions, if she finds that a licensee has violated any law, rule, regulation, subpoena or order of the Commissioner.

23. Tenn. Code Ann. § 56-53-102(a)(1) and (b) provide, in pertinent part, that it shall be unlawful for any person to knowingly and with intent to defraud, and for the purpose of depriving another of property or for pecuniary gain, to present to an insurer, by or on behalf of an

insured, claimant or applicant, or insurance professional, any information which the person knows to contain false representations as to any material fact, or to withhold or conceal a material fact concerning the application for any insurance policy or a claim for payment pursuant to any insurance policy, in that such is a fraudulent insurance act.

24. Based upon the Findings of Fact stated above, the Commissioner finds that Respondent, as the applicant and the insurance professional, knowingly and with intent to defraud, and for the purpose of depriving another of property or for pecuniary gain, presented to American Republic Insurance Company an application for an insurance policy which she knew contained false representations regarding her medical and general history and withheld material information concerning her medical and general history and that grounds exist for an order revoking or suspending the Respondent's license in accordance with Tenn. Code Ann. § 56-6-112(a)(2) and assessing civil penalties in accordance with Tenn. Code Ann. § 56-6-112(e).

25. Tenn. Code Ann. § 56-6-112(a)(7) provides, in pertinent part, that the Commissioner may revoke or suspend a license issued under this part or may levy a civil penalty in accordance with subsection (e) or take any combination of such actions if she finds that a licensee has committed any insurance fraud.

26. Tenn. Code Ann. § 56-53-102(a)(1) and (b) provide, in pertinent part, that it shall be unlawful for any person to knowingly and with intent to defraud, and for the purpose of depriving another of property or for pecuniary gain, to present to an insurer, by or on behalf of an insured, claimant or applicant, or insurance professional, any information which the person knows to contain false representations as to any material fact, or to withhold or conceal a material fact concerning the application for any insurance policy, in that such is a fraudulent insurance act.

27. Based upon the Findings of Fact stated above, the Commissioner finds that Respondent, as the applicant and the insurance professional, knowingly and with intent to defraud, and for the purpose of depriving another of property or for pecuniary gain, presented to American Republic Insurance Company an application which she knew contained false representations regarding her medical and general history and withheld material information concerning her medical and general history and that grounds exist for an order revoking or suspending the Respondent's license in accordance with Tenn. Code Ann. § 56-6-112(a)(7) and assessing civil penalties in accordance with Tenn. Code Ann. § 56-6-112(e).

28. The Respondent admits to the Findings of Fact, above, and further admits that such findings subject her to sanctions pursuant to Tenn. Code Ann. 56-6-112. The Respondent further admits that the Conclusions of Law, above, are fair and reasonable. In order to avoid any further expenses or costs associated with litigating this matter, the Respondent hereby desires to enter into this Agreed Order.

ORDER

NOW THEREFORE, on the basis of the foregoing, and the waiver of the Respondent, of her 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 agreed to the entry of this Order and that this Order is appropriate, and in the public interest.

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

1. The insurance producer license, numbered 843289, held by the Respondent, Sharon K. Miracle, is hereby **REVOKED** from the date of the entry of this Order, and

2. The Respondent, Sharon K. Miracle, shall pay to the Commissioner of the Tennessee Department of Commerce and Insurance a **CIVIL PENALTY** in the total amount of **One Thousand Dollars ($1,000)** as the sole and exclusive penalty for the violation of Tenn. Code Ann. § 56-6-112. Said amount is to be paid within thirty (30) days of the entry of this Order.

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 the signature affixed below, Sharon K. Miracle, affirmatively states that she has freely agreed to the entry of this Agreed Order, that she has been advised that she may consult legal counsel in this matter, and has had the opportunity to consult with legal counsel, that she waives her right to a hearing on the matters underlying this Agreed Order, 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.

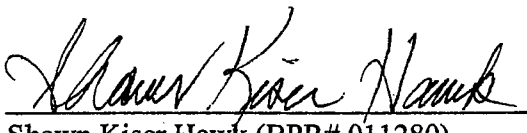
ENTERED this the 27th day of March, 2006.

Paula A. Flowers

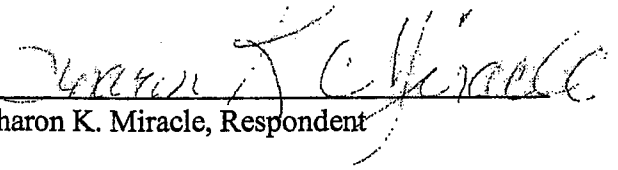
Paula A. Flowers, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

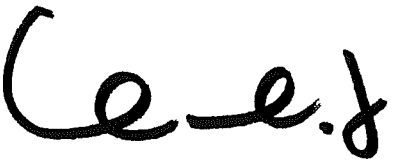
Larry C. Knight, Jr.
Assistant Commissioner for Insurance
Department of Commerce and Insurance
500 James Robertson Parkway
Nashville, Tennessee 37243



Shawn Kiser Hawk (BPR# 011280)
Staff Attorney
Department of Commerce and Insurance
500 James Robertson Parkway, 5th Floor
Nashville, Tennessee 37243
(615) 532-6830
(615) 741-4100 facsimile
shawn.hawk@state.tn.us



Sharon K. Miracle, Respondent



Kelly S. Johnson (BPR# 020817)
Counsel for Respondent
Burroughs & Johnson
1750 Riverview Tower
900 South Gay Street
Knoxville, Tennessee 37902
(865) 525-3773
(865) 637-2185 facsimile
kellysjohnson@birch.net