

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

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TENNESSEE INSURANCE)
DIVISION,)
Petitioner,)
v.)
JAMES HALLAM BOYD, III,)
Respondent)

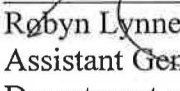
APD No.: 12.04-137557J
TID No.: 16-001

SECRETARY OF STATE

NOTICE OF VOLUNTARY DISMISSAL WITH PREJUDICE

Comes now the State of Tennessee, by and through undersigned counsel, and hereby notifies this Court and the Administrative Judge assigned to this matter, previously set for March 31, 2017 and continued by agreement, that parties have resolved this matter through the attached Agreed Order. The State would show that therefore, the State takes a voluntary nonsuit to dismiss this formal proceeding with prejudice

Respectfully Submitted this the 25 day of May 2017.


Robyn Lynne Ryan #12782
Assistant General Counsel
Department of Commerce & Insurance
500 James Robertson Parkway
Davy Crockett Tower
Nashville, TN 37243-0569

Certificate of Service

I hereby certify that I have forwarded a copy of the above via first class U.S. Mail to the Respondent's attorney:

Michael Keeney
Attorney for Respondent
Lewis Thomason
One Commerce Square, 29th Floor
40 South Main
Memphis, TN 38103

on this 27 day of May, 2017.



Robyn Ryan



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

TENNESSEE INSURANCE DIVISION,)	
Petitioner,)	
)	
v.)	APD No.: 12.04-137557J
)	TID No.: 16-001
JAMES HALLAM BOYD, III,)	
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 James Hallam Boyd, III, ("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 Respondent for the purpose of avoiding further administrative action with respect to this cause. 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.

6. Respondent fully understands and agrees that should this Agreed Final Order not be approved and signed prior to March 31, 2017, the parties will go forward with the contested hearing already scheduled for that date.

AUTHORITY AND JURISDICTION

7. 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

8. 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.

9. Respondent is a Tennessee resident, with an address of record on file with the Division of 537 Burrow Cemetery Road, Gallaway, Tennessee 38002. Respondent first obtained his Tennessee resident insurance producer license number 0691292 on April 20, 1988. This license has an expiration date of July 31, 2017.

AGREED FINDINGS OF FACT

10. At all times relevant herein, Respondent was employed as an insurance producer by Pitts-Boyd Insurance, Inc. ("PBI"), an insurance agency located in Tennessee. Respondent had no equity interest in the agency.

11. Henry Pitts, President of PBI, formed a relationship with Harden County Bank ("HCB") to manage the bank's insurance business and received commissions from that

relationship. A customer of HCB was Hardin Medical Center ("HMC"), a Tennessee non-profit corporation, who allowed Pitts-Boyd to review policies and present alternative and potentially lower cost insurance coverage. As a result, from 2007 to 2013, Pitts-Boyd Insurance managed the insurance coverage needs of HMC.

12. In that same period of time, Respondent was the manager of these accounts handled by PBI, but Henry Pitts was responsible for pricing proposals to HMC.

13. During this period, Respondent presented to HMC six (6) insurance proposals and invoices. These policies were based on original insurance quotes from International Placement Services ("IPS") a wholesale distributor of policies for Chubb and Philadelphia Indemnity Insurance ("Philadelphia").

14. Each of these proposals had prices higher than the quotes provided by IPS and resulted in HMC paying a total of sixty-two thousand, nine hundred three dollars and twenty four cents (\$62,903.24) over the amounts as quoted.

15. HMC made these payments directly to PBI and was not made aware at any time that the quotes were altered from the quotes as provided by IPS.

16. For each of the years in question, the original and altered proposals were as follows:

Date	Original Proposal	Altered Proposal	Amount Paid	Difference
7/1/07-7/1/08	\$45,881.00	\$56,381.00	\$56,381.00	\$10,500.00
7/1/08-7/1/09	\$42,078.00	\$56,003.00	\$56,003.00	\$13,925.00
7/1/09-7/1/10	\$35,809.00	\$47,011.00	\$43,093.42	\$7,284.42
3/19/10-3/19/11	\$7,485.00	N/A, Overpaid	\$7,780.28	\$295.28
7/1/10-7/1/11	\$31,696.00	\$42,657.00	\$46,574.54	\$14,878.54
7/1/11-7/1/12	\$32,509.00	\$40,239.00	\$40,239.00	\$7,730.00
7/1/12-7/1/13	\$33,917.00	\$42,207.00	\$42,207.00	\$8,290.00

17. Respondent received commission benefits from each of the altered amounts paid by HMC.

18. Respondent knew the amounts proposed to HMC were altered from the quotes received by IPS but did nothing to alert HMC of the false proposals.

19. The altered proposals were proposals made and approved by Henry Pitts, but Respondent did not challenge Henry Pitts nor did Respondent refuse to present the altered amounts to HMC.

20. Respondent left PBI in 2013 and Henry Pitts passed away in 2014.

21. Neither PBI nor Respondent has refunded these amounts to HMC. As part of full resolution of this matter, Respondent will refund the altered amounts to HMC in the amount of sixty-two thousand, nine hundred three dollars and twenty-four cents (\$62,903.24) within six months of the execution of this Agreed Order.

AGREED CONCLUSIONS OF LAW

22. Respondent's actions as set forth above in the foregoing Agreed Findings of Fact, constitute violations of Tenn. Code Ann. §§ 56-6-112(a)(4), (a)(5), (a)(8), and (a)(15), which read as follows:

Tenn. Code Ann. § 56-6-112

(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 money or properties received in the course of doing insurance business;
- (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;
- (15) Violating the unfair trade practices as enumerated in §56-6-125.

23. 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).

24. 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 Law 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 pursuant to Tenn. Code Ann. § 4-5-314(a) and agrees that this Agreed Final Order is in the public interest and is consistent with the purposes fairly intended by the Law.

IT IS ORDERED, that:

1. Respondent's Tennessee resident insurance producer license No. 0691292 is hereby placed in a probation status for a period of six (6) months commencing on the effective date of this Order. Respondent's probation shall be stayed and will terminate six (6) months from the effective date of this Agreed Final Order so long as he pays the below civil penalty according to schedule, pays sixty-two thousand, nine hundred three dollars and twenty four cents (\$62,903.24) to HMC, and so long as he does not violate any statute or rule of the Commissioner of Commerce and Insurance including, but not limited to, the knowing or negligent sale of any unsuitable insurance product, knowingly or negligently supervise any employees or contracted insurance producers who are found to have violated any statute or rule of the Commissioner of Commerce and Insurance, including but not limited to the sale unsuitable policies during this period.

2. Respondent is **ASSESSED** a **CIVIL PENALTY** in the amount of ten thousand dollars (\$10,000.00).

3. Payments to the Department of the ten thousand dollar (\$10,000.00) civil penalty assessment shall be mailed to:

State of Tennessee
Department of Commerce and Insurance
Office of Legal Counsel
Attn: Robyn Ryan, Assistant General Counsel
500 James Robertson Parkway, 8th Floor
Nashville, TN 37243

4. The failure to make all payments and satisfy all terms of this Agreed Final Order shall result in the **IMMEDIATE REVOCATION** of Respondent's insurance producer license number 0691292 without a hearing to adjudicate such revocation.

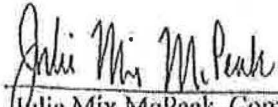
5. Respondent shall **CEASE and DESIST** from violating the provisions of Tenn. Code Ann. §56-6-112 in presenting, assisting, or negotiating any altered insurance policy quotes to any client of Respondent.

6. 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)(5), (a)(8), and (a)(15), alleged by the Division to have occurred with respect to the transactions involving the facts contained herein, with the exception of any future action which may become necessary to enforce this judgment.

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 he has freely agreed to the entry of this Agreed Final Order, that he 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 him 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.

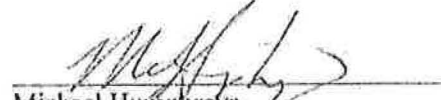
ENTERED this 25 day of May, 2017.


Julie Mix McPeak, Commissioner
TN Department of Commerce and Insurance

APPROVED FOR ENTRY:


James Hallam Boyd, III, Respondent
637 Burrow Cemetery Road
Gallaway, TN 38002


Michael Keeney BPR #15521
Attorney for Respondent
Lewis Thomason
One Commerce Square, 29th Floor
40 South Main
Memphis, TN 38103
(901)525-8721


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


Robyn Lynne Ryan BPR #12782
Assistant General Counsel
Department of Commerce & Insurance
500 James Robertson Parkway
Davy Crockett Tower
Nashville, TN 37243
(615) 532-5897

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above will be served upon Respondent via U.S. Mail, on this 2nd day of May, 2017.

Michael Keeney BPR#15521
Attorney for Respondent
Lewis Thomason
One Commerce Square, 29th Floor
40 South Main
Memphis, TN 38103
(901)525-8721

James Hallam Boyd, III
537 Burrow Cemetery Road
Gallaway, Tennessee 38002



Robyn L. Ryan