



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

TENNESSEE INSURANCE DIVISION,)
 Petitioner,)
))
vs.) **TID No. 15-105**
))
))
JAMES ALLEN FORD, JR.,)
 Respondent.)

CONSENT ORDER

The Insurance Division ("Division") of the Tennessee Department of Commerce and Insurance ("Department"), and James Allen Ford, Jr. ("Respondent"), by and through respective counsel, 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 Consent Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry of said Consent Order by the Commissioner.

2. This Consent Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Consent Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings. Any admissions made by

Respondent in this Consent Order are for the purposes of this pending action only and are not admissions for any other purpose nor do they constitute admissions in any other proceeding.

3. Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against Respondent for acts or omissions not specifically addressed in this Consent 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 Consent Order, Respondent fully understands that this Consent Order will in no way preclude proceedings by state or local officers, agencies, or civil or criminal law enforcement authorities against Respondent for alleged 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 Consent Order by Respondent.

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

6. Respondent fully understands that this Consent Order, when entered, will constitute a public document for purposes of any applicable statutes governing access by the public to government records.

7. Respondent fully understands and agrees that the Commissioner is not required to enter this Consent Order if Respondent does not deliver to the Division his first scheduled payment toward the civil penalty assessment in a timely manner. Should Respondent not make

this first payment in a timely manner, this Consent Order will not become effective and the Division will reschedule the hearing in this case on a contested docket before an Administrative Judge assigned to the Secretary of State.

AUTHORITY AND JURISDICTION

8. 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 responsibility for the administration of these provisions on the Commissioner.

PARTIES

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

10. Respondent is a Tennessee resident, whose address of record with the Division is 103 Blue Hills Court, Nashville, TN 37214. Respondent obtained his Tennessee Resident Insurance Producer License, number 0936204, on September 8, 2005. Respondent’s license expired on February 28, 2015, and has now lapsed by operation of law.

FINDINGS OF FACT

11. During the relevant time period beginning in or around 2009, and continuing through 2014, Respondent was employed by John Oscar Wilson, III (“Wilson”), another licensed Tennessee Insurance Producer, or by Wilson’s company, Preserve Financial Group (“PFG”).

12. During the relevant time period, and as late as June 2014, Respondent held himself out on PFG’s website as providing retirement planning and advertising a “safe way” for individuals to invest their money.

13. Respondent made phone calls to certain of Wilson's potential insurance clients, who were retirees residing in East Tennessee, and accompanied Wilson on several trips to meet with certain of these individuals in person at their homes during the relevant period of time. A component of Wilson's sales presentations to these potential clients involved books entitled "The Retirement Miracle" and "Tax Free Retirement," written by Patrick Kelly, and pursuing Kelly's strategy to advise retirees to remove their money from their existing tax-deferred investments, and to instead invest their money in multiple insurance products, or products such as reverse mortgages.

14. While present during phone conversations and in-person meetings with these individuals who followed Wilson's advice during the relevant period of time, Respondent remained silent or acquiesced in Wilson's recommendations that the clients make certain investment decisions, even though Wilson did not inform them of possible substantial tax liabilities and early withdrawal penalties they would later incur by following his advice and surrendering certain policies. Respondent also failed to speak up and inform many of these clients that the annuities and reverse mortgages, which Wilson was recommending that they purchase, were not suitable investments based on the lack of financial benefit to the clients, their ages, income, and investment needs.

15. In mitigation, Respondent was not listed as a writing agent entitled to commission on any of the insurance or annuity policies sold to these clients by Wilson; Respondent also had no signature authority on any of PFG's bank accounts, and had no ownership interest or managerial position with this company. Further, Respondent did not handle or deposit any client or insurance company checks in this matter, he did not forge any of these clients' signatures on checks or on any insurance related documents, or present any such forged instruments to insurance companies.

16. In 2016, Wilson entered a guilty plea to two (2) counts of wire fraud in the U.S. District Court for the Middle District of Tennessee, admitting that between 2005 and November 2014, he devised and engaged in a scheme to defraud and obtain money from his clients and various insurance companies by making material false representations and using interstate wires. In May 2017, Wilson was sentenced to fifty-two (52) months of incarceration on these charges and will owe more than eight hundred thousand dollars (\$800,000) in restitution to his victims (including those clients referred to herein).

CONCLUSIONS OF LAW

17. Respondent's actions as set forth above in the foregoing Findings of Fact, have violated Tenn. Code Ann. §§ 56-6-112(a)(2) and (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:
 -
 - (2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;
 -
 - (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere[.]

18. Respondent's violations of Tenn. Code Ann. §§ 56-6-112(a)(2) and (a)(8), (2011), 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), (g)(2) and (g)(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.

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 Consent 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 Consent Order and agrees that this Consent Order is in the public interest and is consistent with the purposes fairly intended by the Law.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 56-6-112(g) that:

1. The Commissioner refuses to issue to Respondent any future license as an Insurance Producer in Tennessee, and Respondent shall permanently refrain from submitting to the Department any future application for such a license.
2. Respondent is **ASSESSED a CIVIL PENALTY** in the amount of three thousand five hundred dollars (\$3,500).
3. All payments to the Department of the three thousand five hundred dollars (\$3,500) civil penalty assessment shall be mailed to:

**State of Tennessee
Department of Commerce and Insurance
Office of Legal Counsel
Attn: Jesse D. Joseph, Assistant General Counsel
500 James Robertson Parkway, 8th Floor
Nashville, TN 37243**

4. Respondent shall have one and a half (1.5) years to pay this civil penalty to the Department according to the following schedule:
 - (a) Respondent shall deliver his first **two hundred fifty dollar (\$250) payment** to the Department toward the civil penalty assessment, **by November 20, 2017**;
 - (b) Respondent shall deliver an additional **one thousand dollar (\$1,000) payment** to the Department toward the civil penalty assessment **by May 20, 2018**; and
 - (c) Respondent shall deliver a final **two thousand two hundred fifty dollar (\$2,250) payment** to the Department toward the civil penalty assessment **by May 20, 2019**.
5. Respondent is permitted to pay the civil penalty assessment sooner than required by the above schedule and in larger payment amounts if he chooses.
6. A payment shall be considered timely made if it is **received** by the Department within seven (7) calendar days of the date such payment is due. All payments shall

include a copy of the first page of this Consent Order and shall be made payable to the “State of Tennessee.”

7. The failure to make timely payments under the terms of this Consent Order may result in additional disciplinary proceedings being brought against Respondent which may result in the assessment of additional civil penalties.

8. The failure to timely make any payment shall render any remaining balance under this Consent Order immediately due and collectible.

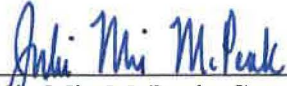
9. All persons in any way assisting, aiding, or helping Respondent in any of the aforementioned violations of Tenn. Code Ann. § 56-6-112 shall **CEASE AND DESIST** from all such activities in violation of the Law.

IT IS ORDERED that this Consent 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)(2) and (a)(8) alleged by the Division to have occurred with respect to the transactions involving the facts contained herein.


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 the signatures affixed below, Respondent affirmatively states he has freely agreed to the entry of this Consent Order, that he waives the right to a hearing on the matters underlying this Consent 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 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 the settlement as set forth in this Agreed Final Order, are binding upon them.

ENTERED this 8 day of December, 2017.

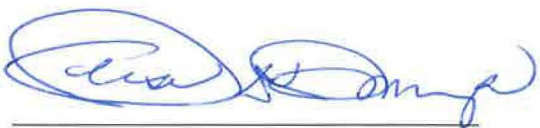

Julie Mix McPeak, Commissioner
TN Department of Commerce and Insurance

APPROVED FOR ENTRY:


James Allen Ford, Respondent
103 Blue Hills Court
Nashville, TN 37214


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


David R. Grimm, BPR# 24454
Attorney for Respondent Ford
Grimmett Law Firm PLLC
315 Deaderick Street, Suite 1210
Nashville, TN 37238
(615) 256-4468
dgrimm@grimm律lawfirm.com


Jesse D. Joseph, BPR # 10509
Assistant General Counsel
TN Department of Commerce and Insurance
500 James Robertson Parkway, 8th Floor
Nashville, Tennessee 37243
(615) 253-4701
Jesse.Joseph@tn.gov