

Consent 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 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. Respondent fully understands that this Consent Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for violations of the statutes, rules, or regulations addressed specifically in the Findings of Fact and Conclusions of Law in this Consent Order, or which may arise as a result of the execution of this Consent Order by the Respondent.

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

AUTHORITY AND JURISDICTION

6. The Commissioner has jurisdiction over this matter pursuant to the Tennessee Insurance Law (“Law”), Title 56 of the Tennessee Code Annotated (“Tenn. Code Ann.”), specifically, Tenn. Code Ann. §§ 56-1-101, 56-1-202, and 56-6-112. The Law places on the Commissioner the responsibility of the administration of its provisions.

PARTIES

7. The Commissioner of the Department of Commerce and Insurance for the State of Tennessee has jurisdiction in this matter.

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 people.

9. Respondent has been a licensee of the Division since on or about April 14, 1999. He presently holds a Tennessee Insurance Producer License Number 0770021 and is a resident of Tennessee.

10. Prior to the information presented to the Division on or about June 23, 2015, Respondent has not been the subject of any disciplinary action in the State of Tennessee.

FINDINGS OF FACT

11. In 2015, the Respondent was conducting business as Commercial Insurance Services (“CIS”). This is not a contracted agency. The Respondent was the sole producer in the agency.

12. CIS has a business address of 906 Ridgeway Ave., Signal Mountain, TN 37377.

13. The mailing address of CIS was P.O. Box 603, Signal Mountain, TN 37377.

14. Hooker was appointed to write business on behalf of Travelers Companies (“Travelers”) in 2013. Hooker is not an employee of Travelers.

15. In January, 2015, United States Postal Inspector Jedidiah Hutchinson (“Hutchinson”) began investigating a fraud accusation made against the Respondent.

16. Hutchinson began his investigation by going to P.O. Box 603 in Signal Mountain, Tennessee. Upon arriving, he noticed the mailbox was overflowing with mail.

17. Hutchinson found over three hundred (300) pieces of mail. The earliest documented mail was from September, 2014. All of the insurance documents found in the mailbox relate back to Travelers insurance policy holders. Hutchinson found billing statements, cancellation notices, insurance policies, and three (3) checks.

18. The following policies holders' documents were found in the mailbox: (1) Herb Coursey; (2) Jesse Faircloth; (3) Furniture Clinic; (4) Scottie Walters; (5) Challenge Supply; (6) Robbie Hicks; (7) Jessica Jackson; (8) Ronald Long; (9) Stephanie Man; (10) Doug Phillips; (11) Adam Sheardt; (12) Jerry Smith; (13) Dem Sisters, LLC; (14) Cloud Springs Collision; (15) Mark Jackson; (16) Don's Foreign Car; (17) Auto Surgeon; (18) Advanced Headliner and Carpet.

19. After receiving notice of this incident, Hamilton County Police Detective Jamie Gienapp ("Gienapp") joined the investigation.

20. On March 21, 2015, the Respondent was interviewed by both Gienapp and Hutchinson.

21. In that interview, Hooker stated he never picked up premium checks directly from his customers unless it was for the first premium payment.

22. In that interview, Hooker stated that he would pay any collection fees for policies affected by his conduct.

23. Hooker paid the collection fees for the following: (1) Jesse Faircloth; (2) Robbie Hicks; (3) Dem Sisters, LLC.; (4) Cloud Springs Collision; and (5) Auto Surgeon.

CONCLUSIONS OF LAW

24. At all times relevant hereto, Tenn. Code Ann. § 56-6-112(a) has provided that the Commissioner may place on probation, suspend, revoke, or refuse to issue a license under Title 56, Chapter 6, Part 1, or issue a civil penalty for the following reason:

(4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

...

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating

incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

25. For all violations occurring on or after July 1, 2011, Tenn. Code Ann. § 56-6-112

(2011) states in pertinent part:

(e) The commissioner shall retain the authority to enforce this part and impose any penalty or remedy authorized by this part and this title against any person who is under investigation for or charged with a violation of this part or this title, even if the person's license has been surrendered or has lapsed by operation of law.

(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 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 the 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.

(h) In determining the amount of penalty to assess under this section, the commissioner shall consider:

(1) Whether the person could reasonably have interpreted such a person's actions to be in compliance with the obligations required by a statute, rule or order;

(2) Whether the amount imposed will be a substantial economic deterrent to the violator;

(3) The circumstances leading to the violation;

(4) The severity of the violation and the risk of harm to the public;

- (5) The economic benefits gained by the violator as a result of noncompliance;
- (6) The interest of the public; and
- (7) The person's efforts to cure the violation.

26. Tenn. Code Ann. § 56-8-104(8)(A) provides the following:

Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any policy of insurance, including, but not limited to, any life insurance policy or annuity, or accident and health insurance or other insurance, or agreement as to the contract other than as plainly expressed in the policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to the policy, any rebate of premiums payable on the policy, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to the policy or annuity or in connection with the policy or annuity, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the policy.

27. The facts alleged in paragraphs fifteen (15) to eighteen (18) indicate that Hooker failed to properly turn three (3) premium checks over to Travelers. Such failure would constitute a violation of Tenn. Code Ann. § 56-6-112(a)(4) and/or (8).

28. The facts alleged in paragraphs twenty-two (22) and twenty-three (23) indicate that Hooker paid a rebate to five different companies, which would constitute a violation of Tenn. Code Ann. § 56-8-104(8)(A).

29. The Findings of Fact contained herein constitute grounds for a Consent Order placing Respondent's insurance producer license on PROBATION in accordance with Tenn. Code Ann. § 56-6-112 (2011). Such facts also provide grounds for an order imposing civil penalties against Respondent in an amount of one thousand dollars (\$1,000).

ORDER

NOW, THEREFORE, on the basis of the foregoing, and Respondent's waiver of the right to a hearing and appeal under the Act and the Uniform Administrative Procedures Act ("UAPA"), Tenn. Code Ann. §§ 4-5-101 *et seq.*, and Respondent's admission of jurisdiction of the Commissioner, the Commissioner finds that Respondent, for the sole purpose of settling this matter, admits the Findings of Fact and Conclusions of Law, agrees to the entry of this Order, and agrees that this Order is in the public interest, necessary for the protection of citizens of the State of Tennessee and consistent with the purposes fairly intended by the policy and provisions of the Law.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 56-6-112 (2011) of the Law, that:

1. Respondent's Tennessee Insurance Producer License number 0770021 is hereby placed on **PROBATION** for a period of two (2) years beginning immediately upon final execution of this agreed Consent Order.
2. Any acts unrelated to this matter that violate Tennessee's law, or any other state's law, will violate the terms of the Respondent's probation. A violation of Respondent's probation will result in automatic suspension of respondent's license.
3. Respondent pay **CIVIL PENALTIES** in the amount of one thousand dollars (\$1,000). Payment shall be made within one (1) year of the date this agreement is executed by the Commissioner, and payment shall be mailed to:

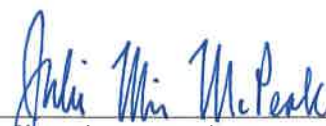
**State of Tennessee
Department of Commerce and Insurance
Legal Division, 8th Floor
Attn: Miles Brooks Jr., Attorney
Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243**

4. The failure to timely make payment under the terms of this agreed Consent Order may result in additional disciplinary action being taken against Respondent including, but not necessarily limited to, the assessment of additional civil monetary penalties.

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) and 56-8-104(8)(A) alleged by the Insurance Division to have occurred with respect to the facts contained herein.

This Consent Order is in the public interest and in the best interests of the parties, 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 Insurance 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 settlement as set forth in this Consent Order, are binding upon them.

ENTERED this 18 day of December, 2018.




Julie Mix McPeak, Commissioner
Department of Commerce and Insurance


APPROVED FOR ENTRY:



Sammy Hooker



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