

TN ID# 1001736  
NPN-5415537



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

<b>TENNESSEE INSURANCE DIVISION,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>TID No.: 17-100</b>
	)	
<b>DAVID LEE,</b>	)	
	)	
<b>Respondent.</b>	)	

---

**CONSENT ORDER**

---

The Tennessee Insurance Division of the Department of Commerce and Insurance ("Division") and Mr. David Lee ("Respondent") hereby stipulate and agree to the entry of this Consent Order 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 an 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.

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 July 24, 2008. He presently holds nonresident Tennessee insurance producer license number 1001736 and is a resident of Massachusetts.

10. Prior to the information presented to the Division on or about January 13, 2017, Respondent has not been the subject of any disciplinary action in the State of Tennessee.

#### **FINDINGS OF FACT**

11. A complaint was filed with the Rhode Island Division of Insurance against the Respondent. Respondent failed to respond to the complaint. On March 26, 2015, Rhode Island issued a Consent Order against Respondent for missing his hearing. Rhode Island fined Respondent one thousand dollars (\$1,000).

12. Respondent failed to report Rhode Island's action to Utah. On September 22, 2015, Utah revoked Respondent's license and issued a five hundred dollar (\$500) penalty.

13. Respondent failed to report that a state action had been taken against him on his Missouri insurance producer application. On November 25, 2015, Missouri fined Respondent two hundred and fifty dollars (\$250).

14. Respondent failed to report to Delaware the actions that had been taken against him in other states. On January 19, 2016, Delaware revoked Respondent's license and issued a five hundred dollar (\$500) penalty.

15. Respondent failed to report to Louisiana the actions that had been taken against him in other states. On January 25, 2016, Louisiana issued a two hundred fifty (\$250) dollar penalty.

16. Respondent failed to report to South Dakota the actions that had been taken against him in other states. On March 17, 2016, Respondent's South Dakota insurance producer application was denied on renewal.

17. Respondent failed to report to California the actions that had been taken against him in other states. On September 19, 2016, California revoked Respondent's license.

18. Respondent renewed his nonresident Tennessee license on November 2, 2016. In the renewal, Respondent disclosed every state action taken against his license.

19. Respondent's disclosures did not happen within thirty (30) days from the date of final disposition of the matter.

#### CONCLUSIONS OF LAW

20. 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:

- (2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;
- ...
- (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

21. 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.

22. 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 five hundred dollars (\$500).

**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 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 non-resident insurance producer license number 1001736 is hereby placed on **PROBATION** for a period of one (1) year 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. Pay **CIVIL PENALTIES** in the amount of five hundred dollars (\$500). Payment shall be made within six (6) months of the date this agreement is executed by the Commissioner, and payment shall be mailed to:

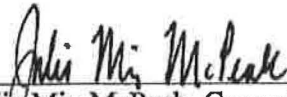
**State of Tennessee  
Department of Commerce and Insurance  
Legal Division, 8th Floor  
Attn: Miles Brooks Jr., Attorney  
Davy Crockett Tower  
500 James Robertson Parkway  
Nashville, Tennessee 37243**

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) alleged by the Insurance Division to have occurred with respect to the facts contained herein.

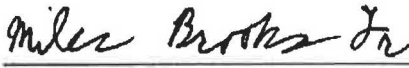
This Consent Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signatures affixed below, Respondent affirmatively states he has freely agreed to the entry 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 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 28 day of November, 2017.

  
\_\_\_\_\_  
Julie Mix McPeak, Commissioner  
Department of Commerce and Insurance

**APPROVED FOR ENTRY:**

\_\_\_\_\_  
David Lee

  
\_\_\_\_\_  
Miles K. Brooks Jr., BPR #35056  
Assistant General Counsel  
500 James Robertson Parkway  
Davy Crockett Tower  
Nashville, TN 37243  
(615) 253-8706  
Miles.Brooks@tn.gov



ENTERED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

---

Julie Mix McPeak, Commissioner  
Department of Commerce and Insurance

**APPROVED FOR ENTRY:**



---

David Lee

---

Miles K. Brooks Jr., BPR #35056  
Assistant General Counsel  
500 James Robertson Parkway  
Davy Crockett Tower  
Nashville, TN 37243  
(615) 253-8706  
Miles.Brooks@tn.gov