



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

TENNESSEE INSURANCE DIVISION,)
 Petitioner,)
)
vs.)
)
CYNTHIA ANN MINTON,)
 Respondent.)

Docket No. 12.04-1474093
TID No. 17-070

SECRETARY OF STATE

2017 DEC 13 PM 3:59

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AGREED FINAL ORDER

The Insurance Division (“Division”) of the State of Tennessee Department of Commerce and Insurance (“Department”), by and through undersigned counsel, and Cynthia Ann Minton (“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 the Division is not required to file this Agreed Final Order with the Administrative Procedures Division of the Tennessee Secretary of State's Office if Respondent does not deliver to the Division payment of the below civil penalty assessment in a timely manner. Should Respondent not make this payment in a timely manner, this Agreed Final 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. This Agreed Final Order will become effective on the date it is filed with the Administrative Procedures Division of the Tennessee Secretary of State.

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, whose address of record with the Division is 484 Woods Road, Bluff City, TN 37618. Respondent obtained her Tennessee Resident Insurance Producer License, number 2254378, on or about September 13, 2013, and said license is scheduled to expire on April 30, 2018.

FINDINGS OF FACT

10. Between May and August 2016, Respondent was employed as the manager for Lender's Title & Escrow, LLC's ("Lender's Title") branch office in Bristol, Tennessee. Respondent was also a licensed title agent for Lender's Title during this time, and she prepared the HUD-1 Settlement Statement for the residential real estate closing of buyers Allen and Jessica Rogers, handled by Lender's Title on May 10, 2016.

11. At this closing conducted on May 10, 2016, Respondent provided to Mr. and Ms. Rogers a document captioned "Notice of Availability of Title Insurance," which informed these purchasers that they could obtain an owners' title insurance policy for five hundred seventy-two dollars and fifty cents (\$572.50).

12. Ms. Rogers gave Respondent a check made payable to Lender's Title for owners' title insurance in the amount of five hundred seventy-two dollars and fifty cents (\$572.50), at the

closing on May 10, 2016. This check was credited to Lender's Title's account within five (5) business days after the closing.

13. Respondent also notarized the Warranty Deed prepared by Lender's Title for the Rogers' closing on May 10, 2016, and ensured the recording of said deed with the Register of Deeds in Washington County, Tennessee, on May 17, 2016.

14. Moreover, Respondent told Mr. and Ms. Rogers at this closing that all aspects of the closing would be completed within a few days, and that copies of the recorded warranty deed and the title insurance policy would be forwarded to them promptly.

15. By early June 2016, Mr. and Ms. Rogers had not received the title insurance policy which they paid for or a copy of the recorded warranty deed, and at this time they contacted Respondent to inquire about the whereabouts of these documents.

16. During early to mid-August 2016, Mr. and Ms. Rogers emailed and phoned Respondent several times inquiring about the owners' title insurance policy and expressing their concern that the policy had not been received. Ms. Rogers was given various excuses by Lender's Title employees in the Bristol office and was told not to worry.

17. On August 17, 2016, Respondent emailed a copy of the recorded warranty deed to Ms. Rogers and indicated that she could mail a copy that day. Respondent also stated in this email that she would "send the owners policy to [Ms. Rogers] in a couple of days."

18. At or about the same time as Respondent's email to Ms. Rogers dated August 17, 2016, the Bristol office of Lender's Title was "shut down" by directive of Jerry Holmes, Jr., the President and Owner of Lender's Title, due to escrow account issues and disputes between Lender's Title and North American Title Insurance Company ("NATIC"). By this time, all of the files of Lender's Title's Bristol, Tennessee branch were locked within the office.

19. By August 23, 2016, the Rogers' emails to Respondent began to go unanswered, and they learned that the phone number for Lender's Title's Bristol office was disconnected. At or about this same time, Mr. and Ms. Rogers located a phone number for Lender's Title's headquarters in Wilmington, North Carolina, and ultimately spoke to Mr. Holmes about the failure to receive a title insurance policy as paid for at the closing. Not being satisfied with Mr. Holmes' further promises that the policy was forthcoming, Ms. Rogers submitted a complaint against Respondent with the Department on or about August 30, 2016.

20. At some point during the fall of 2016, NATIC terminated Lender's Title as an agent, and as part of that process, was attempting to gather all of Lender's Title's files. By November 2016, NATIC had located the file for Mr. and Ms. Rogers' closing. Within the file, NATIC located the application for title insurance and a check in the amount of eighty-five dollars and eighty-seven cents (\$85.87), which was made payable to NATIC for its portion of the title insurance premium. This check to NATIC issued by Lender's Title dated May 13, 2016, was not remitted to NATIC in the normal course of business, and was not received by NATIC until on or about November 21, 2016.

21. Mr. and Ms. Rogers did not receive an owners' title insurance policy from NATIC until January 2017; however, the policy was made effective retroactive to the date of the closing on May 10, 2016, to protect these purchasers due to the delay in policy issuance.

22. In response, Respondent maintains that her office was short-staffed and that for considerable periods of time she had only part-time employees assisting her during the spring and summer of 2016, as was often the case for Lender's Title branches under the direction of Mr. Holmes. Respondent also states that there was a large backlog of closing files older than the Rogers' which were a higher priority during the three (3) month period between mid-May and mid-August 2016, and that she was powerless to do anything to complete the title insurance

application for the Rogers after Lender's Title's Bristol branch was shut down. Finally, Respondent emphasizes that she did not commit theft or misappropriate any funds from the closing, and that she did not intentionally withhold remittance of the premium split from NATIC or intentionally delay issuance of the title insurance policy to these purchasers.

CONCLUSIONS OF LAW

23. Respondent's actions as set forth above in the foregoing Findings of Fact, constitute violations of Tenn. Code Ann. §§ 56-6-112(a)(2), (a)(4), and (a)(8) (2011), 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:
 -
 - (2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;
....
 - (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[.]

24. Respondent's violations of Tenn. Code Ann. §§ 56-6-112(a)(2), (a)(4), 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), (2) and (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.

25. 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)(1), (2), and (3).

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

1. Respondent is **ASSESSED a CIVIL PENALTY** in the amount of five hundred dollars (\$500), which shall be received by the Department by November 30, 2017.
2. Respondent's payment to the Department of the five hundred dollar (\$500) civil penalty assessment shall include a copy of the first page of this Agreed Final Order and 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**

3. Respondent's payment of this five hundred dollar (\$500) civil penalty assessment to the Department shall be considered timely made if the entire amount is **received** by the Department within seven (7) calendar days of the date such payment is due. All payments of this civil penalty assessment shall be made payable to the "State of Tennessee."
4. Respondent's Tennessee resident insurance producer license (No. 2254378) is **hereby placed on PROBATION for a period of six (6) months**, commencing on the effective date of this Order. During the period of probation, Respondent shall obtain an additional twelve (12) hours of Ethics Continuing Education ("CE") courses in the subject area of Title Insurance practice and issues, in addition to the biennial CE requirements necessary for license renewal, and shall deliver provider course completion

certificates setting out the completion of said twelve (12) additional hours to undersigned counsel for the Department at the above address, by the end of the six (6) month probationary period.

5. Should Respondent violate any provision of this Agreed Final Order during the period of her probation, her insurance producer license will be immediately suspended with no further procedural steps required, and shall remain so suspended until she complies with all requirements of this Agreed Final Order.

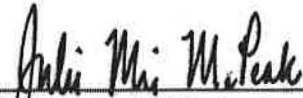
6. All persons in any way assisting, aiding, or helping Respondent in any of the aforementioned violations of Tenn. Code Ann. §§ 56-6-112 and 56-6-119 shall **CEASE AND DESIST** from all such activities in violation of the Law.

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)(2), (a)(4), and (a)(8) alleged by the Division to have occurred with respect to the transactions involving the facts contained herein.

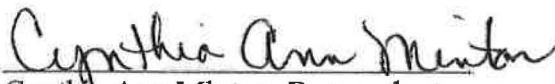
This Agreed Final Order is in the public interest and in the best interests of the parties, represents a compromise and settlement of the controversy between the parties, and is for settlement purposes only. By the signatures affixed below, Respondent affirmatively states she has freely agreed to the entry of this Agreed Final Order, that she 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 her 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.

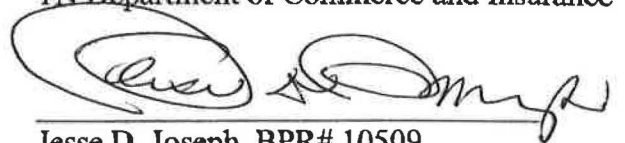
ENTERED this 13 day of December, 2017.


Julie Mix McPeak, Commissioner
TN Department of Commerce and Insurance


APPROVED FOR ENTRY:


Cynthia Ann Minton, Respondent
480 Woods Road
Bluff City, TN 37618


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


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Filed in the Office of the Secretary of State, Administrative Procedures Division, this 13 day of December, 2017.


J. Richard Collier, Esq., Director,
Administrative Procedures Division