



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

**IN THE MATTER OF ERIC STEWART, and)
ERIC STEWART INSURANCE AGENCY) TID No.: 15-035
)**

CONSENT ORDER

The Tennessee Insurance Division of the Department of Commerce and Insurance (“Division”) and Eric Stewart Insurance Agency (“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 law addressed specifically in this Consent Order, against the 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 may arise as a result of the execution of this Consent Order by the Respondents.

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 August 22, 2013. He presently holds Tennessee insurance producer license number 2251739 and is a Tennessee resident residing at 440 Wild Elm Street, Franklin, Tennessee 37064.

10. Respondent owns an insurance agency called the Eric Stewart Insurance Agency, located at 102 Front Street, Franklin, Tennessee 37064.

11. Prior to the allegations presented to the Division on or about February 11, 2015, Respondent has not been the subject of any disciplinary action in the State of Tennessee.

FINDINGS OF FACT

12. On or about late January or early February 2015, Respondent published an advertisement in the Tennessean newspaper.

13. The aforementioned Tennessean newspaper advertisement claimed an automobile insurance scheme existed in Williamson County, Tennessee.

14. The aforementioned Tennessean newspaper advertisement stated “the average Williamson County driver pays about \$420 more per year than they may be legally required to.”

15. The aforementioned Tennessean newspaper advertisement stated “[i]n 2014 alone, nearly 500 Middle Tennessee drivers paid more than \$131,000 combined in unnecessary insurance fees[.]”

16. The aforementioned Tennessean newspaper advertisement stated “the average driver was overpaying by approximately 44% (\$420 per year), with some local driver overpaying by nearly 50%.”

17. The aforementioned Tennessean newspaper advertisement stated “. . . people are commonly being misled by greedy insurance agents who care more about making a big commission check than saving their clients money[.]”

18. The aforementioned Tennessean newspaper advertisement stated “[t]he agency was recently selected by A+ Rated Erie Insurance to carry out its new exclusive car insurance program.”

19. The assertions represented in paragraphs 13-18 were based solely on Respondent’s client data.

20. The assertions represented in paragraphs 13-18 were not based on any aggregate data of all residents with automobile insurance policies in Williamson County, Tennessee.

CONCLUSIONS OF LAW

21. At all times relevant hereto, Tenn. Code Ann. § 56-8-104(2) (2008) has provided that the following shall be an unfair trade practice in the business of insurance in the State of Tennessee:

“Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any insurer in the conduct of its insurance business, that is untrue, deceptive or misleading.”

22. 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; [and],
- ...
- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere[.]

23. 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.

24. The Findings of Fact contained herein constitute five (5) violations of the Tenn. Code Ann. § 56-8-104(2) and are grounds for a Consent Order imposing civil penalties against Respondent in an amount of five thousand dollars (\$5,000).

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 purpose of settling this matter, admits to 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 the 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 shall **CEASE AND DESIST** from conducting producing and publishing advertisements in violation Tenn. Code. Ann. § 56-8-104(2).

2. Respondent shall pay **CIVIL PENALTIES** in the amount of five thousand dollars (\$5,000). Payment shall be made within thirty (30) days from the date this agreement is executed by the Commissioner and payment shall be mailed to:

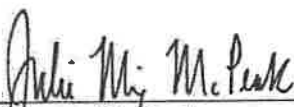
**State of Tennessee
Department of Commerce and Insurance
Legal Division; Attn: Kathleen Dixon
Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243**

3. In addition, it is further **ORDERED** that all persons in any way assisting, aiding, or helping Respondent in any of the aforementioned violations of the Tenn. Code Ann. § 56-8-104(2), 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, Eric Stewart and Eric Stewart Insurance Agency, for violations of the Tenn. Code Ann. § 56-8-104(2) 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, Eric Stewart and Eric Stewart Insurance Agency, 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 settlement as set forth in this Consent Order, are binding upon them.

ENTERED this 4th day of May, 2015.



Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

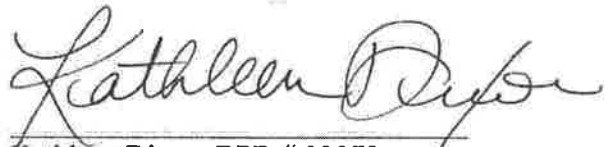


Eric Stewart
Eric Stewart Insurance Agency
102 Front Street
Franklin, Tennessee 37064



Michael Humphreys
Assistant Commissioner for Insurance
Department of Commerce and Insurance
500 James Robertson Parkway
Nashville, Tennessee 37243

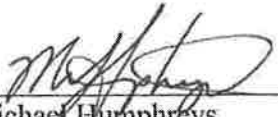
Respectfully Submitted,



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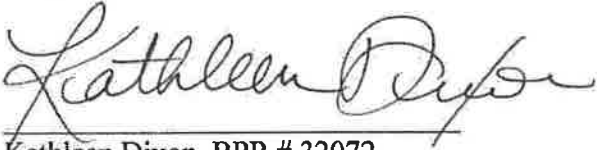
APPROVED FOR ENTRY:

Eric Stewart
Eric Stewart Insurance Agency
102 Front Street
Franklin, Tennessee 37064



Michael Humphreys
Assistant Commissioner for Insurance
Department of Commerce and Insurance
500 James Robertson Parkway
Nashville, Tennessee 37243

Respectfully Submitted,



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