NPN - 12668439
TN Agent# 1011473

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

TENNESSEE INSURANCE DIVISION,	)	
Petitioner,	)	
	)	
vs.	)	**No: 10-070**
	)	
ANTHONY K. AVERY,	)	
Respondent.	)	

CONSENT ORDER

The Insurance Division of the Tennessee Department of Commerce and Insurance ("Insurance Division"), by and through counsel, and Anthony K. Avery ("Respondent") hereby stipulate and agree, subject to the approval of the Commissioner 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 the Commissioner.

2. The Commissioner has determined that the resolution set forth in this Consent Order is fair and reasonable and in the best public interest.

3. This Consent Order is executed by 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.

4. Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against Respondent for acts and/or omissions not specifically addressed in this Consent Order or for acts and/or omissions that do not arise from the facts or transactions herein addressed. Respondent also understands that this Consent Order may be used by the Commissioner or any Commissioner, Department or Board to revoke or refuse to issue any license Respondent currently holds or for which Respondent applies in the future.

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

JURISDICTION

6. The Commissioner has jurisdiction pursuant to the Tennessee Insurance Law (the "Law"), TENN. CODE ANN. § 56-6-101 *et seq.*, and the Law places the responsibility for the administration of the Law on the Commissioner.

PARTIES

7. The Insurance 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.

8. Respondent is a citizen and resident of the State of Tennessee, residing at 3053 McGee Cove, Memphis, Tennessee 38128. Respondent's insurance producer license, numbered 1011473, was issued in 2008.

FINDINGS OF FACT

9. From approximately December 29, 2008 until March 19, 2010, Respondent was employed by United Insurance Company of America ("United").

10. On approximately March 15, 2010, Respondent admitted to a United district manager that he had misappropriated premium payments remitted directly to him by United policyholders.

11. On approximately March 19, 2010, United terminated Respondent's appointment.

12. On approximately May 14, 2010, United concluded its audit and determined that Respondent had misappropriated premium payments totaling approximately twelve thousand three hundred ninety-three dollars ($12,393) remitted directly to him by United policyholders. By not cancelling any affected policies, United sustained financial damages and will sustain additional financial damages if any claims are paid on any affected policies.

CONCLUSIONS OF LAW

13. TENN. CODE ANN. § 56-6-112(a)(4) (2008) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license and/or may levy a civil penalty for anyone who improperly withholds, misappropriates or converts any moneys or properties received in the course of doing insurance business.

14. Based on the Findings of Facts cited above, the Commissioner finds that Respondent improperly withheld, misappropriated or converted moneys received in the course of doing insurance business.

15. Such facts would constitute grounds for an Order revoking Respondent's insurance producer license in accordance with TENN. CODE ANN. § 56-6-112(a)(4) and assessing a civil penalty in accordance TENN. CODE ANN. § 56-2-305(a)(2) (2008). Respondent admits to the Findings of Fact and concedes that the Conclusions of Law are fair and reasonable as outlined above. Respondent enters into this Consent Order for the sole purpose of avoiding further administrative action with respect to this cause.

ORDER

NOW, THEREFORE, based on the foregoing and the waiver of Respondent's rights to a hearing and appeal under the Law and Tennessee's Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101 *et seq.*, and the admission by Respondent of the jurisdiction of the Commissioner, the Commissioner finds that the Respondent has agreed to the entry of this Consent Order and that this Consent Order is appropriate and in the public interest.

IT IS ORDERED, pursuant to TENN. CODE ANN. § 56-6-112(a) (2008) that:

The insurance producer license, numbered 1011473, issued to Anthony K. Avery, is hereby **REVOKED**.

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 signature affixed below, Anthony K. Avery, affirmatively states that he has freely agreed to the entry of this Consent Order, that he has been advised that he may consult with legal counsel in this matter, that he waives the right to a hearing on the matters underlying this Consent Order and that no threats or promises of any kind have been made by the Commissioner, the Insurance Division or any agent 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 set forth in this Consent Order, are binding upon them.

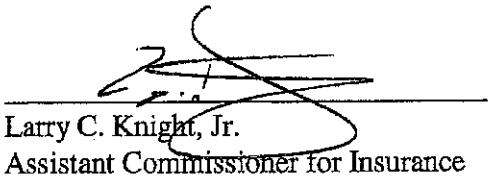
SO ORDERED.

ENTERED this the 8th day of November, 2010.

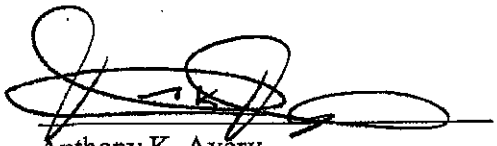
Leslie A. Newman

Leslie A. Newman, Commissioner
Department of Commerce and Insurance

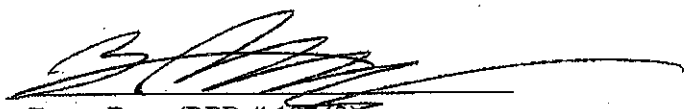
APPROVED FOR ENTRY:



Larry C. Knight, Jr.
Assistant Commissioner for Insurance
Department of Commerce and Insurance



Anthony K. Avery
3053 McGee Cove
Memphis, Tennessee 38128



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