

0974511  
NPN-9336091

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

TENNESSEE INSURANCE DIVISION,	)	
Petitioner,	)	
	)	
vs.	)	No: 10-030
	)	
JEFFREY S. MCKINNEY,	)	
Respondent.	)	

CONSENT ORDER

The Insurance Division of the Tennessee Department of Commerce and Insurance ("Insurance Division"), by and through counsel, and Jeffrey S. McKinney ("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 he 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.

#### **PARTIES**

6. The Commissioner has jurisdiction pursuant to the Tennessee Insurance Law (the "Law"), Title 56 of the Tennessee Code Annotated, and the Law places the responsibility for the administration of its provisions on the Commissioner.

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 1778 Lucille Lane, Murfreesboro, Tennessee 37129.

9. Respondent has an insurance producer license, numbered 974511, which was issued in 2007.

#### **FINDINGS OF FACT**

10. From approximately June 25, 2007 until February 28, 2009, Respondent was employed by Farmers Insurance Group ("Farmers"), which is located at 814 South Church Street, Murfreesboro, Tennessee 37130.

11. On approximately May 14, 2009, Farmers received a complaint from two of its insureds, Paul Gregory and Francesca Anderson. Mr. Gregory and Ms. Anderson both stated that Respondent failed to credit their insurance policies with the insurance premium payments they made directly to Respondent.

12. On approximately December 29, 2008, Mr. Gregory submitted directly to Respondent a cashier's check in the amount of eight hundred thirty-nine dollars and twelve cents (\$839.12) and made payable to the order of Farmers. The premium payment was made by Mr. Gregory for his hazard insurance policy.

13. On approximately February 10, 2009, Respondent deposited Mr. Gregory's cashier's check into his business account, which was titled Jeffrey McKinney Agency. Respondent failed to credit Mr. Gregory's premium payment to his insurance policy.

14. On approximately February 12, 2009, Ms. Anderson submitted directly to Respondent a check in the amount of one thousand six hundred eighty-seven dollars (\$1,687) and made payable to the order of Farmers. The premium payment was made by Ms. Anderson for two automobile insurance policies.

15. On approximately February 28, 2009, Respondent's appointment was terminated by Farmers.

16. On approximately April 13, 2009, Respondent deposited Ms. Anderson's premium payment into his business account. Respondent failed to credit Ms. Anderson's premium payment to her insurance policies.

17. Subsequent to the above insureds' complaints, Farmers conducted an audit of Respondent's insureds and accounts and determined that Respondent failed to credit the insureds' premium payments to their respective insurance policies. Farmers notified the Department of Commerce and Insurance.

## CONCLUSIONS OF LAW

18. 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.

19. TENN. CODE ANN. § 56-6-112(a)(8) (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 uses fraudulent, coercive or dishonest practices or demonstrates incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

20. Based on the Findings of Facts cited above, the Commissioner finds that Respondent misappropriated and converted moneys received in the course of doing insurance business and used fraudulent or dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business.

21. Such facts constitute grounds for an Order revoking Respondent's insurance producer license based on violations of TENN. CODE ANN. § 56-6-112(a)(4) and (8) (2008) and assessing a civil penalty in an amount up to one thousand dollars (\$1,000) for each violation in accordance with TENN. CODE ANN. § 56-2-305(a)(2) (2008). Respondent admits to the Findings of Fact and concedes that the Conclusions of Law contained herein 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 of his 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 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) that:

The insurance producer license, numbered 974511, issued to Jeffrey S. McKinney, 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, Jeffrey S. McKinney, 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 and has had an opportunity to consult with legal counsel, that he waives his 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 22<sup>nd</sup> day of July, 2010.

Leslie A. Newman  
Leslie A. Newman, Commissioner  
Department of Commerce and Insurance

APPROVED FOR ENTRY:



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



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Jeffrey S. McKinney  
1778 Lucille Lane  
Murfreesboro, Tennessee 37129



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