TN agent # 0733698

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

TENNESSEE INSURANCE DIVISION, Petitioner,	)	
vs.	)	No: 09-049
TROY SHANON SEXTON, Respondent.	)	

CONSENT ORDER

The Insurance Division of the State of Tennessee Department of Commerce and Insurance ("Insurance Division"), by and through counsel, and Troy Shanon Sexton ("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 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 applies for 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.

FINDINGS OF FACT

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 116 Elm Street, Helenwood, Tennessee 37755.

9. Respondent has an insurance producer license, numbered 733698, which was issued in 1993.

10. On February 9, 2009, the Tennessee Department of Commerce and Insurance ("Department") received a complaint from Allen Davis of CFB Financial Services, Inc. ("CFB") against Respondent. From April 2004 until his employment was terminated in January 2009, Respondent worked as an insurance producer for CFB.

11. On February 4, 2008, Eugene Byrd made an insurance premium payment in cash directly to Respondent in the amount of seven hundred twenty dollars ($720) for his homeowner's insurance policy with Hartford Insurance Company ("Hartford"). Hartford, though, never received Mr. Byrd's insurance premium payment. Mr. Byrd, therefore, was without homeowner's insurance coverage for a year. Respondent retained Mr. Byrd's insurance premium payment for his personal use.

12. Beginning in May 2008, James Baker made five (5) monthly insurance premium payments in cash directly to Respondent in the total amount of three hundred dollars ($300). Safeco, though, never received Mr. Baker's initial down payment or subsequent monthly payments, so his insurance policy was canceled on July 30, 2009. Respondent retained Mr. Baker's insurance premium payments for his personal use.

13. On May 14, 2008, Allen Carson made an insurance premium payment directly to Respondent in the amount of one thousand sixty-three dollars ($1,063) for two (2) real estate insurance policies. Respondent deposited Mr. Carson's premium payment into his personal bank account. Respondent made an initial down payment of two hundred eighty-six dollars and seventeen cents ($286.17) to Safeco. Respondent made no further premium payments to Safeco, so Mr. Carson's insurance policies were canceled. Respondent retained Mr. Carson's insurance premium payment for his personal use.

14. From August 26, 2008 through December 30, 2008, Melanie Hall made insurance premium payments directly to Respondent in the amount of eight hundred ten dollars ($810) for her homeowner's insurance policy with Hartford and her automobile insurance policy with Guide One Insurance ("Guide One"). Hartford and Guide One, though, never received Ms. Hall's insurance premium payments, so her insurance policies were canceled. Respondent retained Ms. Hall's insurance premium payments for his personal use.

15. During 2008, Nathan Lowe was charged "filing fees" totaling seven hundred dollars ($700) by Respondent for numerous commercial properties insured through him. The "filing fees" were not authorized or assessed by CFB. Respondent retained Mr. Lowe's payments for "filing fees" for his personal use. Mr. Lowe was subsequently reimbursed in full by CFB.

16. On November 25, 2008, Oscar Taubert made an insurance premium payment directly to Respondent in the amount of five hundred ninety dollars ("$590") for a homeowner's insurance policy. Respondent, though, failed to complete an application for insurance coverage on Mr. Taubert's behalf and, instead, retained Mr. Taubert's insurance premium payment for his personal use.

CONCLUSIONS OF LAW

17. TENN. CODE ANN. § 56-6-112(a)(2) (Supp. 2007) 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 violates any law, rule, regulation, subpoena or order of the Commissioner or of another state's Commissioner.

18. TENN. CODE ANN. § 56-6-112(a)(4) (Supp. 2007) 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) (Supp. 2007) 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. TENN. CODE ANN. § 56-6-112(a)(2) (2008) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license for anyone who violates any law, rule, regulation, subpoena or order of the Commissioner or of another state's Commissioner.

21. 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 for anyone who improperly withholds, misappropriates or converts any moneys or properties received in the course of doing insurance business.

22. 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 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.

23. TENN. CODE ANN. § 56-2-305(a)(2) (2008) provides that the Commissioner may order the 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), unless the insurer, person or entity knowingly violates a statute, rule or order, in which case the penalty shall not be more than twenty-five thousand dollars (25,000) for each violation, not to exceed an aggregate penalty of two hundred fifty thousand dollars ($250,000).

24. 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 and used fraudulent, coercive or dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business based on Respondent's professional relationships with the following: Eugene Byrd; James Baker; Allen Carson; Melanie Hall; Nathan Lowe and Oscar Taubert.

25. Such facts would constitute grounds for an Order assessing a civil penalty against Respondent and revoking his insurance producer license based on violations of TENN. CODE ANN. § 56-6-112(a)(2), (4) and (8). Respondent concedes that the Conclusions of Law contained herein are fair and reasonable as outlined above. The 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 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) that:

The insurance producer license, numbered 733698, issued to Troy Sexton, 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, Troy Shanon Sexton, 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 the 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 6th day of October, 2009.

Leslie A. Newman

Leslie A. Newman, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

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