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

TENNESSEE INSURANCE DIVISION,	)	
Petitioner,	)	
	)	
vs.	)	**APD No.: 12.01-124364J**
	)	**TID No.: 13-153**
CONNIE FAYE BAIRD,	)	
Respondent	)	
	)	

CONSENT ORDER

The Tennessee Insurance Division of the Department of Commerce and Insurance ("Division") and Connie Faye Baird ("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 the 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 Respondent.

5. Respondent expressly waives all further procedural steps and all rights to seek judicial review or to otherwise challenge or contest the validity of this Consent Order, the stipulations and imposition of discipline expressly contained herein, and the consideration and entry of said Consent Order by the Commissioner.

6. Respondent fully understands that this Consent Order, when entered, will constitute a public document for purposes of any applicable statutes governing access by the public to government records.

7. Respondent agrees that facsimiles of her respective signature on this Consent Order—scanned in portable document format (PDF) or similar format—returned by electronic means, if accepted by the Division, are effective as original signatures and that the Consent Order may be issued with such facsimile signatures.

AUTHORITY AND JURISDICTION

8. 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

9. 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.

10. Respondent is a citizen and resident of the state of Tennessee, residing at 116 Plymouth Circle, Oak Ridge, TN 37830. Respondent's address of record is: 135 Farr Lane, Oliver Springs, Tennessee 37840.

FINDINGS OF FACT

11. Respondent is a licensee of the Division who has, at all times relevant hereto, been responsible for compliance with the insurance laws, rules and regulations of the State of Tennessee.

12. On July 12, 2007, the Division granted Respondent an insurance producer license, numbered 961609. Respondent was the principal of Executive Title Insurance Company, Inc., ("Executive Title"), a title insurance agency which was issued license number 2000659 (formerly designated as number 1175) by the Division on June 27, 2007.

13. Respondent, as principal for Executive Title, received an appointment to represent Chicago Title Insurance Company ("Chicago Title") where she was authorized to issue title insurance policies, commitments, and other assurances to lending institutions, companies and individuals in connection with the purchase of real estate. Respondent served in this capacity from approximately August 16, 2007 until she was terminated on or about October 25, 2010.

14. Respondent was notified by Chicago Title in September, 2010, that Executive Title would be terminated as an agent of Chicago Title, effective October 25, 2010.

Acts Relating to Chris Eineke

15. On or about September 22, 2010, while facilitating a home loan refinance closing for Chris Eineke—for property located at 1010 Sandy Court, Maryville, Tennessee 37803—Respondent received funds in the amount of two thousand nine hundred fifty-one dollars ($2,951) that was to be escrowed with Executive Title at closing for payment of city and county taxes for year 2010.

16. Respondent failed to pay the collected funds to the taxing authorities for city and county taxes.

17. Mr. or Mrs. Eineke purchased a Chicago Title insurance policy at closing. As a result of Respondent's failure to pay the city and county taxes for year 2010, Chicago Title, in its capacity as underwriter, paid the taxing authorities two thousand nine hundred ninety-six dollars ($2,996) for taxes plus penalty assessed for late payment.

Acts Relating to Annette Dekanich

18. On or about October 8, 2010, while facilitating a home loan refinance closing for Annette Dekanich—for property located at 1035 Willow Creek Circle, Maryville, Tennessee 37804—Respondent received funds in the amount of seven hundred ninety-eight dollars ($798) that was to be escrowed with Executive Title at the closing for payment of city taxes for year 2010.

19. Respondent failed to pay the collected funds to the taxing authorities for city and county taxes.

20. Ms. Dekanich purchased a Chicago Title insurance policy at closing. As a result of Respondent's failure to pay the city and county taxes for year 2010, Chicago Title, in its

capacity as underwriter, paid the taxing authorities one thousand fifty-nine dollars and ninety-six cents ($1,059.96), which included taxes plus penalty assessed for late payment.

Acts Relating to Elizabeth and Steve Gartner

21. On or about October 29, 2010, while facilitating a home loan refinance closing for Elizabeth and Steve Gartner, (collectively known as the "Gartners")—for property located at 62 Fairway Drive, Bristol, Tennessee 37620—Respondent received funds in the amount of three thousand twenty-four dollars ($3,024) that was to be escrowed with Executive Title at closing for payment of property taxes for year 2010.

22. Respondent failed to pay the collected funds to the taxing authority.

23. The Gartners did not purchase a Chicago Title insurance policy at closing. As a result of Respondent's failure to pay the collected funds to the county trustee, the Gartners were assessed three thousand two hundred six dollars ($3,206) for the taxes, penalty and interest for the delinquent tax payment.

Acts Relating to Shawn Bennett and Christa J. Bennett

24. On or about November 7, 2010, while facilitating a home loan refinance closing for Shawn Bennett and Christa J. Bennett (collectively the "Bennetts")—for property located at 9029 Tall Timber Drive, Knoxville, Tennessee 37931, Respondent received funds in the amount of one thousand one hundred thirty-nine dollars ($1,139) that was to be escrowed with Executive Title at closing for payment of county property taxes for year 2010.

25. Respondent failed to pay the collected funds to the taxing authority.

26. The Bennetts purchased a Chicago Title insurance policy at closing. As a result of Respondent's failure to pay, Chicago Title, in its capacity as underwriter, paid the taxing

authorities one thousand three hundred twenty-six dollars and ninety four cents ($1,326.94), which included taxes plus penalty and interest assessed for late payment.

CONCLUSIONS OF LAW

27. At all times relevant hereto, Tenn Code Ann. § 56-6-112(a) (2002) and (2008) has provided that the Commissioner may place on probation, suspend revoke, or refuse to issue or renew a license or issue a civil penalty for the following reasons:

> . . .
>
> (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 doing business in this state or elsewhere[.]

28. For each violation occurring before July 1, 2011, Tenn. Code Ann. § 56-2-305 (2008) states in pertinent part:

> (a) If . . . the commissioner finds that any insurer, person, or entity required to be licensed, permitted or authorized by the division of insurance 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), 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). This subsection (a)(2) shall not apply where a statute or rule specifically provides for other civil penalties

for the violation. For purposes of this subsection (a)(2), each day of continued violation shall constitute a separate violation; and

(3) The suspension or revocation of the insurer's, person's, or entity's license.

(b) In determining the amount of penalty to assess under this section, or in determining whether the violation was a knowing violation for the purpose of subdivision (a)(2), the commissioner shall consider any evidence relative to the following criteria:

(1) Whether the insurer, person, or entity could reasonably have interpreted its 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) Whether the amount imposed would put the violator in a hazardous financial condition; [1]

(4) The circumstances leading to the violation;

(5) The severity of the violation and the risk of harm to the public;

(6) The economic benefits gained by the violator as a result of noncompliance;

(7) The interest of the public; and

(8) The insurer's, person's, or entity's efforts to cure the violation.

29. At all times relevant hereto, Tenn. Code Ann. § 56-6-112(e) (2008) provided that:

> 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.

[1] "Hazardous financial condition" is an insurance industry term which refers to the financial condition of an insurance company, and the term is inapplicable to an individual insurance producer's economic affairs. (*see generally,* Tenn. Comp. R. & Regs. 0780-1-78-.03).

30. The Findings of Fact contained herein constitute grounds for a Consent Order revoking Respondent's Insurance Producer/Surplus license in accordance with Tenn. Code Ann. §§ 56-2-305 (2008). Such facts also provide grounds for an order imposing civil penalties against Respondent in an amount of not more than twenty-five thousand dollars ($25,000) for each separate violation committed before July 1, 2011 in accordance with Tenn. Code Ann. § 56-2-305(a)(2) (2008).

ORDER

NOW, THEREFORE, based on the foregoing and Respondent's waiver of her rights to a hearing and appeal under the Law and Tennessee's Uniform Administrative Procedures Act ("UAPA"), Tenn. Code Ann. §§ 4-5-101 *et. seq.*, and the admission by Respondent of the 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 and has agreed to the entry of this Consent Order, and that this Consent Order is appropriate, in the best interest of the public, and necessary for the protection of the public.

IT IS ORDERED, pursuant to Tenn. Code Ann. § 56-2-305 (2008) that:

1. Respondent's insurance producer license, number 961609, and title insurance license number 2000659 are hereby **REVOKED**, beginning immediately upon final execution of this agreed Consent Order; and

2. Respondent shall not, while without a license, conduct further business for which an insurance license is required under the Law;

3. Respondent shall pay the Division a penalty in the total sum of two hundred and fifty dollars ($250). Such penalty is to be paid according to the following schedule:

May 30, 2014,	$42.00;
June 30, 2014,	$42.00;
July 31, 2014,	$42.00;
August 30, 2014,	$42.00;
September 30, 2014,	$42.00; and
October 31, 2014,	$40.00.

4. Any failure to timely make a payment under the terms of this agreed Consent Order may result in additional disciplinary action being taken against Respondent including, but not necessarily limited to, revocation, suspension, or probation of the above mentioned insurance license(s) and/or the assessment of additional civil penalties. Failure to timely make any payment shall render all remaining payments under this Consent Order immediately due and collectible. Respondent may make any additional payments before the above mentioned due dates. If this additional payment is received by the Tennessee Department of Commerce and Insurance and is in excess of the above mentioned amount(s) and scheduled payment date(s), such payment shall be considered payment for any subsequent scheduled payment date(s).

5. A payment shall be considered timely made if it was **received** by the Tennessee Department of Commerce and Insurance within seven (7) calendar days of the date such payment is due. All payments shall include a copy of the first page of this Order and shall be made out to "State of Tennessee." All payments shall be mailed to the following address:

Tennessee Department of Commerce and Insurance
Legal Division
Davy Crockett Tower

500 James Robertson Parkway
Nashville, TN 37243

6. **IT IS FURTHERED ORDERED** that all persons in any way assisting, aiding, or helping Respondent in any of the aforementioned violations of Tenn. Code Ann. § 56-6-112, 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 and discharge of administrative remedies available to the Commissioner under Tenn. Code Ann. § 56-6-112 against Respondent for violations of the Law arising out of the Findings of Fact set forth in Paragraphs 11 through 26 above. However, this Consent Order shall in no way preclude a third party or other authority from pursuing civil remedies or criminal action against Respondent which may otherwise be available.

This Consent Order is in the public interest and in the best interest of the parties, represents a compromise and settlement of the controversy between the parties, and is for settlement purposes only. By signature affixed below, Respondent Connie Faye Baird states that she has: (1) freely agreed to the entry of this Consent Order; (2) had the opportunity to effectively consult with legal counsel in this matter; (3) reviewed the Findings of Fact and Conclusions of Law contained herein; and (4) waived her right to a hearing on the matters underlying this Consent Order. Respondent further states that no threats or promises of any kind have been made by the Commissioner, the Division, or any agent or representative thereof with regard to this Consent Order.

By signing this Consent Order, the parties affirm their agreement to be bound by the terms of this Consent Order and confirm that no promises or offers relating to the circumstances described herein, other than the terms of the settlement set forth in this Consent Order, are binding upon them.

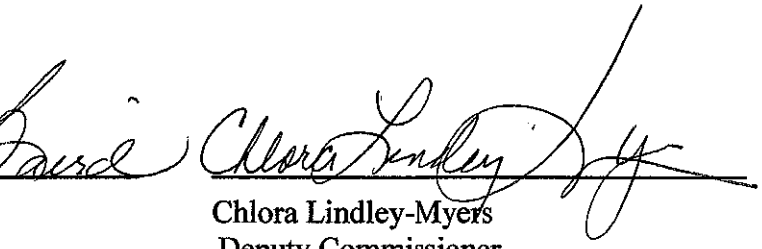
IT IS SO ORDERED.

ENTERED this the 21st day of April, 2014.

Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

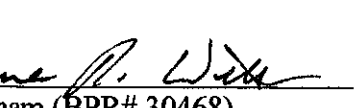
Connie Faye Baird
116 Plymouth Circle
Oak Ridge, TN 37830



Chlora Lindley-Myers
Deputy Commissioner
Department of Commerce and Insurance
Davy Crockett Tower
500 James Robertson Parkway, 12th Floor
Nashville, Tennessee 37243

Respectfully Submitted,

Nancy S. Jones,
Deputy Commissioner and General Counsel

By: 

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