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

TENNESSEE INSURANCE DIVISION,	)	
Petitioner,	)	
	)	
vs.	)	**TID No.: 13-047**
	)	
C. G. MCCULLOUGH AND ASSOCIATES, LLC,	)	
	)	
CHRISTINA MCCULLOUGH, and	)	
	)	
GARY WAYNE MCCULLOUGH	)	
	)	
Respondents,	)	

CONSENT ORDER

The Tennessee Insurance Division ("Division"), C. G. McCullough and Associates, LLC, Christina McCullough, and Gary Wayne McCullough (hereinafter collectively referred to as "Respondents") 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. The Commissioner has determined that the resolution set forth in this Consent Order is fair, reasonable, and in the best interest of the public.

3. This Consent Order is executed by the Respondents 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, nor shall it be used for any purpose in furtherance of this case.

4. Respondents fully understand that this Consent Order will in no way preclude additional proceedings by the Commissioner against Respondents 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.

5. Respondents expressly waive 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.

FINDINGS OF FACT

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.) §§ 56-1-202 and 56-6-112. The Law places on the Commissioner the responsibility of the administration of its provisions.

7. 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.

8. C.G. McCullough and Associates, LLC (hereinafter "McCullough and Assoc.") is a business entity licensee of the Division, having been granted Insurance Producer license number 0005463 which expired on or about March 1, 2012. McCullough and Assoc.'s address is on file with the Division as P.O. Box 21426, Chattanooga, TN 37424.

9. Christina McCullough is a licensee of the Division who has, at all times relevant hereto, been a principal or officer responsible for McCullough and Assoc.'s compliance with the insurance laws, rules and regulations of the State of Tennessee. At all times relevant hereto, Christina McCullough held Insurance Producer/Surplus Lines license number 076970 which expired on or about December 31, 2011. Christina McCullough's address is on file with the Division as 8808 Fuller Road, Chattanooga, TN 37421.

10. Gary Wayne McCullough is a licensee of the Division who has, at all times relevant hereto, been a principal or officer responsible for McCullough and Assoc.'s compliance with the insurance laws, rules and regulations of the State of Tennessee. At all times relevant hereto, Gary Wayne McCullough held Insurance Producer license number 0866350 with a current expiration date of March 31, 2013. Gary Wayne McCullough's address is on file with the Division as 8808 Fuller Road, Chattanooga, TN 37421.

11. The term "purchased" as it is used in this order is meant to include the purchase of a new insurance policy, renewal of an insurance policy, addition of an endorsement to an insurance policy, or any other activity by which an insurance agent acquires the rights to insurance or changes the terms of an existing insurance policy on behalf of a client.

12. As a designated responsible licensed producer on behalf of McCullough and Assoc., Christina McCullough was, at all times relevant hereto, responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state.

13. As a designated responsible licensed producer on behalf of McCullough and Assoc., Gary Wayne McCullough was, at all times relevant hereto, responsible for the business entity's compliance with the insurance laws, rules, and regulations of this state.

14. Christina McCullough was in total control of the actions of McCullough and Assoc. and was personally responsible for the actions of McCullough and Assoc.

FINDINGS OF FACT REGARDING ANEXSON TRUCKING

15. On or about December 16, 2010, McCullough and Assoc. purchased Canal Insurance Company (hereinafter, "Canal") policy number PIA06385601 on behalf of Anexson Trucking, Inc. (hereinafter "Anexson").

16. On or about February 4, 2011, policy PIA06385601 was cancelled. This cancellation resulted in $142.80 in commissions becoming unearned. However, this amount is offset by the $58.60 in commissions that McCullough and Assoc. was not properly paid for, bringing the amount of unearned commissions kept by McCullough and Assoc. to $84.20. McCullough and Assoc. failed to refund those unearned commissions.

17. McCullough and Assoc. failed to pay up line to the Managing General Agent ("MGA") or refund $275.27 in diverted premiums.

FINDINGS OF FACT REGARDING AUSTIN FARMS

18. On or about October 6, 2010, McCullough and Assoc. renewed Occidental Insurance (hereinafter "Occidental") policy BA0694577 01 on behalf of Austin Farms. McCullough and Assoc. earned a $635.20 commission on the renewal of this policy.

19. McCullough and Assoc. failed to pay up line or refund $5,716.80 in diverted premiums regarding policy BA0694577 01.

20. On or about January 4, 2011, policy BA0694577 01 was cancelled resulting in $430.60 in previously received commissions becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

21. On or about October 8, 2010, McCullough and Assoc. purchased Canal policy PIA06233101 on behalf of Austin Farms.

22. McCullough and Assoc. failed to refund a $43.00 premium overpayment regarding policy PIA06233101.

23. McCullough and Assoc. failed to pay $1,335.60 in premiums up line to the MGA regarding policy PIA06233101.

24. On or about January 6, 2011, policy PIA06233101 was cancelled resulting in $111.60 in previous commissions becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

FINDINGS OF FACT REGARDING THOMAS BAKER TRUCKING

25. On or about May 25, 2010, McCullough and Assoc. purchased Occidental policy BA0698330 00 on behalf of Thomas Baker Trucking.

26. On or about May 11, 2011, policy BA0698330 00 was cancelled, resulting in $17.80 in previously received commissions becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

27. On or about May 25, 2010, McCullough and Assoc. purchased Canal policy PIA05814801 on behalf of Thomas Baker Trucking.

28. On or about April 5, 2012, policy PIA05814801 was cancelled resulting in $23.60 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

FINDINGS OF FACT REGARDING CARROLL BUTLER TRUCKING

29. On or about January 7, 2011, McCullough and Assoc. purchased Occidental policy BA0694607 01 on behalf of Carroll Butler Trucking ("Butler").

30. McCullough and Assoc. failed to pay $9,620.00 up line to the MGA regarding policy BA0694607 01.

31. On or about January 26, 2011, an endorsement was made to policy BA0694607 01 which resulted in $572.20 in previously earned commissions becoming unearned. McCullough and Assoc. failed to refund those commissions.

32. On or about April 19, 2011, policy BA0694607 01 was cancelled, resulting in $302.00 in previously received commissions becoming unearned. McCullough and Assoc. failed to refund those commissions.

FINDINGS OF FACT REGARDING CARTER CARRIERS

33. On or about June 30, 2010, McCullough and Assoc. purchased Occidental policy BA0693828 01 on behalf of Carter Carriers.

34. On or about September 7, 2010, policy BA0693828 01 was cancelled resulting in $112.00 of the previously received commissions on this policy becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

35. On or about November 30, 2010, McCullough and Assoc. purchased Occidental policy BA0695349 00 on behalf of Carter Carriers.

36. On or about March 17, 2011, policy BA0695349 00 was cancelled resulting in $109.20 of the previously received commission on this policy becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

FINDINGS OF FACT REGARDING CHEYENNE TRANSPORT

37. On or about December 18, 2009, McCullough and Assoc. purchased Northland Insurance (hereinafter "Northland") policy WN021439 on behalf of Cheyenne Transport.

38. On or about July 20, 2010, policy WN021439 was cancelled resulting in $284.83 in previously earned commissions becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

39. On or about September 13, 2010, McCullough and Assoc. received a check from the MGA in the amount of $1,906.17 in returned premiums as a result of the cancellation of policy WN021439. McCullough and Assoc. failed to refund those returned premiums.

FINDINGS OF FACT REGARDING BILLY CONNER FREIGHT LINE

40. On or about January 28, 2011, McCullough and Assoc. purchased Occidental policy BA0694616 01 on behalf of Billy Conner Freight Line.

41. McCullough and Assoc. failed to pay $5,115.26 in premiums received up line to the MGA regarding policy BA0694616 01.

FINDINGS OF FACT REGARDING CPR

42. On or about October 19, 2010, McCullough and Assoc. purchased Occidental policy number BA0688408 05 on behalf of CPR.

43. McCullough and Assoc. failed to pay $10,809.00 up line to the MGA regarding policy BA0688408 05.

44. On or about October 24, 2010, an endorsement was made to policy BA0688408 05 which resulted in $310.50 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those commissions.

45. On or about March 2, 2011, policy BA0688408 05 was cancelled resulting in $411.60 in previously received commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those commissions.

46. On or about October 19, 2010, McCullough and Assoc. purchased Canal policy PIA02592504 on behalf of CPR.

47. On or about February 24, 2011, an endorsement to policy PIA02592504 resulted in $28.40 in previously received commissions becoming unearned. McCullough and Assoc. failed to refund those commissions.

48. On or about March 5, 2011, policy PIA02592504 was cancelled, resulting in $306.90 in previously received commissions becoming unearned. McCullough and Assoc. failed to refund those commissions.

FINDINGS OF FACT REGARDING CROWDERS TRUCKING, LLC

49. On or about June 2, 2010, Respondent renewed Occidental policy BA0693809 01 on behalf of Crowders Trucking, LLC.

50. On or about July 7, 2010, Endorsement 4 to policy BA0693809 01 resulted in a premium decrease of $421.00, including $42.10 in previously earned commissions becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

51. On or about July 15, 2010, Endorsement 6 to policy BA0693809 01 resulted in a premium decrease of $3,811.00, including $381.10 in previously received commissions becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

52. On or about August 23, 2010, Endorsement 9 to policy BA0693809 01 resulted in a $1,018.00 decrease in premiums, including $101.80 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

53. On or about November 2, 2010, Endorsement 12 resulted in a premium decrease of $3,421.00 regarding policy BA0693809 01, including $342.10 in commissions previously received by McCullough and Assoc. becoming unearned.

54. On or about January 21, 2011, Endorsement 15 to policy BA0693809 01 resulted in a $1,441.00 premium decrease, including $144.10 in previously received commissions becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

55. On or about May 15, 2011, policy BA0693809 01 was cancelled, resulting in a $3,535.00 premium decrease, including $353.50 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

56. McCullough and Assoc. failed to pay up line or refund $4,268.90 in diverted premiums regarding policy BA0693809 01.

FINDINGS OF FACT REGARDING LANE CUMBIE TRUCKING

57. On or about August 1, 2010, Respondent purchased Occidental policy BA0690362 03 on behalf of Lane Cumbie Trucking.

58. On or about September 15, 2010, Endorsement 1 resulted in a $1,272.00 premium reduction on policy BA0690362 03, including $127.20 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

59. On or about December 1, 2010, Endorsement 2 to policy BA0690362 03 resulted in $289.60 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those commissions.

60. On or about March 23, 2011, policy BA0690362 03 was cancelled resulting in $156.10 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those commissions.

61. McCullough and Assoc. diverted $1,144.80 in premiums that it failed to pay up line or refund regarding policy BA0690362 03.

FINDINGS OF FACT REGARDING CW CONSTRUCTION CO., INC.

62. On or about January 27, 2010, McCullough and Assoc. purchased Northland policy WN027262 on behalf of CW Construction Co., Inc.

63. On or about April 16, 2010, the MGA returned $3,884.55 to McCullough and Assoc. due to an endorsement on policy WN027262. McCullough and Assoc. failed to refund that return.

64. On or about April 16, 2010, $580.45 in commissions previously received by McCullough and Assoc. became unearned due to an endorsement on policy WN027262. McCullough and Assoc. failed to refund those unearned commissions.

65. On or about May 3, 2010, the MGA returned $3,371.25 to McCullough and Assoc. due to an endorsement on policy WN027262. McCullough and Assoc. failed to refund that return.

66. On or about May 3, 2010, $503.75 in commissions previously received by McCullough and Assoc. became unearned due to an endorsement on policy WN027262. McCullough and Assoc. failed to refund those unearned commissions.

FINDINGS OF FACT REGARDING DIEZEL TRANSPORT

67. On or about September 21, 2009, McCullough and Assoc. purchased Occidental policy BA0694570 00 on behalf of Diezel Transport.

68. On or about August 16, 2010, policy BA0694570 00 was cancelled, resulting in $48.70 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

FINDINGS OF FACT REGARDING DONELSON EXPRESS

69. On or about January 11, 2010, McCullough and Assoc. purchased Occidental policy BA0688453 04 on behalf of Donelson Express.

70. On or about July 9, 2010, policy BA0688453 04 was cancelled resulting in $184.10 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

71. McCullough and Assoc. was overpaid $148.00 regarding policy BA0688453 04. McCullough and Assoc. failed to refund that overpayment.

FINDINGS OF FACT REGARDING DREAM TEAM EXPRESS

72. On or about November 25, 2009, McCullough and Assoc. purchased Occidental policy BA0694597 00 on behalf of Dream Team Express.

73. McCullough and Assoc. failed to refund or pay up line $7,571.10 in diverted premiums regarding policy BA0694597 00.

FINDINGS OF FACT REGARDING FREEDOM TRANSPORTION

74. On or about December 4, 2010, McCullough and Assoc. purchased Canal policy PIA05303402 on behalf of Freedom Transportation.

75. On or about March 10, 2011, policy PIA05303402 was cancelled, resulting in $128.00 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

76. McCullough and Assoc. failed to refund or pay up line $1,567.80 in premiums received regarding policy PIA05303402.

FINDINGS OF FACT REGARDING G.W. TRUCKING, INC.

77. On or about December 1, 2010, McCullough and Assoc. purchased Canal policy PIA05289302 on behalf of G.W. Trucking, Inc.

78. On or about March 31, 2011, policy PIA05289302 was cancelled, resulting in $526.00 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

79. McCullough and Assoc. failed to refund or pay up line $7,057.80 in premiums regarding policy PIA05289302.

FINDINGS OF FACT REGARDING KENNETH L. GRANT TRUCKING

80. On or about December 7, 2010, McCullough and Assoc. purchased Northland policy WN054822 on behalf of Kenneth L. Grant Trucking.

81. McCullough and Assoc. failed to pay up line or refund $4,356.90 regarding policy WN054822.

82. On or about March 31, 2011, policy WN054822 was cancelled, resulting in $333.00 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

FINDINGS OF FACT REGARDING H & H TRUCKING

83. On or about December 1, 2009, McCullough and Assoc. purchased Northland policy WN021387 on behalf of H & H Trucking.

84. On or about September 13, 2010, policy WN021387 was cancelled resulting in $299.00 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

85. On or about September 13, 2010, McCullough and Assoc. received a $2,001.00 return from the MGA as a result of the cancellation of policy WN021387. McCullough and Assoc. failed to refund those returned premiums.

86. On or about January 10, 2011, McCullough and Assoc. purchased Occidental policy BA0695368 00 on behalf of H & H Trucking.

87. McCullough and Assoc. failed to pay $5,031.65 up line to the MGA in payment for the purchase of policy BA0695368 00.

88. On or about February 10, 2011, Endorsement 2 to policy BA0695368 00 resulted $6.00 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

89. On or about April 28, 2011, the cancellation of policy BA0695368 00 resulted in $348.20 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

FINDINGS OF FACT REGARDING JEFFERY HAIRE

90. On or about November 19, 2010, McCullough and Assoc. purchased Canal policy PIA06327901 on behalf of Jeffery Haire.

91. McCullough and Assoc. failed to pay the $980.40 in received premiums regarding policy PIA06327901 up line to the MGA.

92. On or about February 2, 2011, policy PIA06327901 was cancelled, resulting in $111.70 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

FINDINGS OF FACT REGARDING DAVID HAMILTON TRUCK LINES

93. On or about August 6, 2010, McCullough and Assoc. purchased Canal policy PIA06031401 on behalf of David Hamilton Truck Lines.

94. On or about April 6, 2011, policy PIA06031401 was cancelled, resulting in $445.70 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

95. McCullough and Assoc. failed to pay up line or refund $4,318.90 in premiums received regarding policy PIA06031401.

FINDINGS OF FACT REGARDING TERRIER HAUGABROOK

96. On or about May 25, 2010, McCullough and Assoc. purchased Occidental policy BA0698332 00 on behalf of Terrier Haugabrook.

97. On or about December 27, 2010, policy BA0698332 00 was cancelled, resulting in $48.30 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

FINDINGS OF FACT REGARDING ROBERT J. HUDSON TRUCKING

98. On or about January 18, 2011, McCullough and Assoc. purchased Northland policy WN057044 on behalf of Robert J. Hudson Trucking.

99. On or about April 7, 2011, policy WN057044 was cancelled, resulting in $393.00 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

100. McCullough and Assoc. failed to refund or pay up line $4,511.70 in premiums received regarding policy WN057044.

FINDINGS OF FACT REGARDING J & B EXPRESS

101. On or about March 27, 2010, McCullough and Assoc. purchased Occidental policy BA0693773 01 on behalf of J & B Express.

102. On or about June 14, 2010, policy BA0693773 01 was cancelled, resulting in $352.40 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

FINDINGS OF FACT REGARDING G. A. KAYLOR TRANSPORT

103. On or about January 17, 2011, McCullough and Assoc. purchased Occidental policy BA0691472 02 on behalf of G. A. Kaylor Transport.

104. On or about February 16, 2011, Endorsement 4 to policy BA0691472 02 resulted in a $1,573.00 premium decrease, including $157.30 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

105. On or about May 14, 2011, policy BA0691472 02 was cancelled, resulting in $79.70 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

106. McCullough and Assoc. failed to pay up line or refund $1,421.70 in premiums received regarding policy BA0691472 02.

FINDINGS OF FACT REGARDING LEGACY SW CONSTRUCTION

107. On or about October 5, 2010, McCullough and Assoc. purchased Occidental policy BA0698400 00 on behalf of Legacy SW Construction ("Legacy").

108. On or about January 19, 2011, policy BA0698400 00 was cancelled, resulting in $355.30 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

109. McCullough and Assoc. failed to pay up line or refund $5,000.00 in premiums received regarding policy BA0698400 00.

FINDINGS OF FACT REGARDING RICHARD LYNCH TRUCKING

110. On or about February 22, 2010, McCullough and Assoc. purchased Occidental policy BA0688480 04 on behalf of Richard Lynch Trucking.

111. On or about April 30, 2010, policy BA0688480 04 was cancelled, resulting in $430.90 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

112. McCullough and Assoc. failed to pay up line or refund $3,878.10 in premiums received regarding policy BA0688480 04.

FINDINGS OF FACT REGARDING MG & S TRUCKING

113. On or about February 2, 2010, McCullough and Assoc. purchased Occidental policy BA0693754 01 on behalf of MG & S Trucking.

114. On or about November 15, 2010, policy BA0693754 01 was cancelled, resulting in $182.20 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

115. On or about October 14, 2010, McCullough and Assoc. purchased Occidental policy BA0698406 00 on behalf of MG & S Trucking.

116. On or about February 2, 2011, policy BA0698406 00 was cancelled, resulting in $365.90 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

117. McCullough and Assoc. failed to refund or pay up line $5,234.40 in premiums received regarding policy BA0698406 00.

FINDINGS OF FACT REGARDING MJI TRUCKING, LLC

118. On or about September 18, 2010, McCullough and Assoc. purchased Northland policy WN056959 on behalf of MJI Trucking, LLC.

119. On or about March 31, 2011, policy WN056959 was cancelled resulting in $1,261.20 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

120. McCullough and Assoc. failed to refund or pay up line $5,956.90 in premiums regarding policy WN056959.

FINDINGS OF FACT REGARDING ONEIDA TRANSPORTATION, INC.

121. On or about September 18, 2010, McCullough and Assoc. purchased Occidental policy BA0694568 01 on behalf of Oneida Transportation, Inc.

122. On or about September 24, 2010, Endorsement 1 to policy BA0694568 01 resulted in $1,102.20 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions

123. On or about March 23, 2011, policy BA0694568 01 was cancelled resulting in $514.80 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

124. McCullough and Assoc. failed to pay up line or refund $8,775.80 in premiums regarding policy BA0694568 01.

FINDINGS OF FACT REGARDING RONNIE L. PATE TRUCKING

125. On or about December 10, 2010, McCullough and Assoc. purchased policy Canal policy PIA06376801 on behalf of Ronnie L. Pate Trucking.

126. On or about March 23, 2011, the cancellation of policy PIA06376801 resulted in $440.60 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

127. McCullough and Assoc. failed to pay up line or refund $5,609.60 in premiums received regarding policy PIA06376801.

FINDINGS OF FACT REGARDING PINE FARMS, INC.

128. On or about November 16, 2010, McCullough and Assoc. purchased Occidental policy BA0694592 01 on behalf of Pine Farms, Inc.

129. On or about February 27, 2011, policy BA0694592 01 was cancelled resulting in $444.70 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

130. McCullough and Assoc. failed to pay up line or refund $6,194.70 in premiums received regarding policy BA0694592 01.

FINDINGS OF FACT REGARDING DUSTIN L. REED TRUCKING

131. On or about December 9, 2010, McCullough and Assoc. purchased Canal policy PIA05315702 on behalf of Dustin L. Reed Trucking.

132. On or about March 10, 2011, policy PIA05315702 was cancelled, resulting in $235.50 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

133. McCullough and Assoc. failed to pay up line or refund $3,308.40 in premiums received regarding PIA05315702.

FINDINGS OF FACT REGARDING LAMAR RICHARDS TRUCKING

134. On or about February 3, 2010, McCullough and Assoc. purchased Northland policy WN027181 on behalf of Lamar Richards Trucking.

135. On or about December 28, 2010, policy WN027181 was cancelled resulting in a $346.00 premium reduction, including $44.98 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

FINDINGS OF FACT REGARDING ROBERTS TRUCKING

136. On or about December 14, 2010, McCullough and Assoc. purchased Northland policy WN054844 on behalf of Roberts Trucking.

137. On or about March 31, 2011, policy WN054844 was cancelled resulting in $5,745.00 premium decrease, including $574.50 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

138. McCullough and Assoc. failed to pay up line or refund $957.35 in premiums received regarding policy WN054844.

139. On or about December 14, 2010, McCullough and Assoc. purchased Lloyd's of London policy FT11789 on behalf of Roberts Trucking.

140. On or about March 25, 2011, policy FT11789 was cancelled, resulting in $41.88 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

FINDINGS OF FACT REGARDING SANDERS INDEPENDENT TRUCKING

141. On or about May 1, 2010, McCullough and Assoc. purchased Northland policy WN037184 on behalf of Sanders Independent Trucking.

142. On or about April 4, 2011, policy WN037184 was cancelled, resulting in $47.28 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

ALLEGATIONS REGARDING SELLERS & SELLERS TRUCKING

143. On or about May 14, 2010, McCullough and Assoc. purchased Northland policy WN037293 on behalf of Sellers & Sellers Trucking.

144. On or about October 25, 2010, an endorsement to policy WN037293 resulted in $604.92 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

145. On or about January 6, 2011, McCullough and Assoc. took a $4,436.08 credit from the MGA due to an October 25, 2010, endorsement on policy WN037293. Once offset by the $2,060.00 McCullough and Assoc. was previously owed, McCullough and Assoc. failed to refund $2,376.08 in returned premiums.

146. On or about April 7, 2011, policy WN037293 was cancelled, resulting in $246.46 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

FINDINGS OF FACT REGARDING SLOSHEYE LOGISTICS

147. On or about November 11, 2009, McCullough and Assoc. purchased Occidental policy BA0691457 01 on behalf of Slosheye Logistics.

148. McCullough and Assoc. failed to pay up line or refund $388.80 in premiums received regarding policy BA0691457 01.

149. On or about November 11, 2010, McCullough and Assoc. purchased Occidental policy BA0691457 02 on behalf of Slosheye Logistics.

150. On or about February 27, 2011, policy BA0691457 02 was cancelled, resulting in $591.40 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

151. McCullough and Assoc. failed to pay up line or refund $8,402.40 in premiums received regarding policy BA0691457 02.

FINDINGS OF FACT REGARDING SOUTHERN EXPRESS FREIGHT

152. On or about December 8, 2009, McCullough and Assoc. purchased Occidental policy BA0694602 00 on behalf of Southern Express Freight.

153. On or about February 22, 2010, Endorsement 5 to policy BA0694602 00 resulted in a $6,151.00 premium decrease, including $615.10 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

154. On or about April 16, 2010, Endorsement 8 to policy BA0694602 00 resulted in a $21.00 premium decrease, including $2.10 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

155. On or about July 28, 2010, policy BA0694602 00 was cancelled, resulting in a $13,278.00 premium decrease, including $1,327.80 in commissions previously received by

McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

156. McCullough and Assoc. failed to pay up line or refund $2,740.80 in premiums regarding policy BA0694602 00.

FINDINGS OF FACT REGARDING SSC TRUCKING

157. On or about January 17, 2010, McCullough and Assoc. purchased Occidental policy BA0690381 02 on behalf of SSC Trucking.

158. On or about April 8, 2010, Endorsement 2 to policy BA0690381 02 resulted in a $726.00 premium decrease, including $72.60 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

159. On or about May 21, 2010, Endorsement 3 to policy BA0690381 02 resulted in a $464.00 premium decrease, including $46.40 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

160. On or about August 19, 2010, Endorsement 5 to policy BA0690381 02 resulted in a $2,445.00 premium decrease, including $244.50 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

161. McCullough and Assoc. failed to pay up line or refund $567.00 in premiums received regarding policy BA0690381 02.

162. On or about November 5, 2010, McCullough and Assoc. purchased Nautilus policy NN073448 on behalf of SSC Trucking.

163. On or about January 17, 2011, policy NN073448 was cancelled, resulting in a $403.52 premium decrease, including $48.50 in commissions previously received by McCullough and Assoc. becoming unearned. This amount is offset by $4.56 in commissions that McCullough and Assoc. had previously earned but was not paid for, resulting in $43.94 in unearned commissions which were not properly refunded. McCullough and Assoc. failed to refund those unearned commissions.

164. McCullough and Assoc. took the $355.02 refund as a result of the January 17, 2011, cancellation of policy NN073448 and had it credited against its account with the MGA. McCullough and Assoc. failed to refund that returned premium.

FINDINGS OF FACT REGARDING C. THOMAS TRUCKING

165. On or about September 13, 2010, McCullough and Assoc. purchased Occidental policy BA0698389 00 on behalf of C. Thomas Trucking.

166. On or about October 25, 2010, Endorsement 3 to policy BA0698389 00 resulted in a $2,407.00 premium reduction, including $240.70 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

167. On or about November 17, 2010, policy BA0698389 00 was cancelled, resulting in a $2,236.00 premium reduction, including $223.60 in commissions previously received by

McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

168. McCullough and Assoc. failed to pay up line or refund $4,896.00 in premiums received regarding policy BA0698389 00.

FINDINGS OF FACT REGARDING 2T, LLC

169. On or about June 29, 2010, McCullough and Assoc. purchased Occidental policy BA0698354 00 on behalf of 2T, LLC.

170. On or about February 11, 2011, policy BA0698354 00 was cancelled, resulting a $2,163.00 premium reduction, including $216.30 in commissions previously received by McCullough and Assoc. becoming unearned. However, McCullough and Assoc. had previously paid $4.00 more than it had received regarding this policy. As such, McCullough and Assoc. failed to refund $212.30 in unearned commissions.

FINDINGS OF FACT REGARDING V & A TRUCKING

171. On or about January 24, 2011, McCullough and Assoc. purchased Northland policy WN057045 on behalf of V & A Trucking.

172. On or about April 7, 2011, policy WN057045 was cancelled, resulting in a $3,073.00 premium reduction, including $307.30 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

173. McCullough and Assoc. failed to pay up line or refund $3,456.90 in premiums received regarding policy WN057045.

FINDINGS OF FACT REGARDING WILBUR TRUCKING

174. On or about September 7, 2010, McCullough and Assoc. purchased Jackson Sumner Insurance policy MC8025865 on behalf of Wilbur Trucking.

175. On or about December 2, 2010, an endorsement to policy MC8025865 resulted in a $4,183.00 premium reduction, including $418.30 in commissions previously earned by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

176. On or about January 4, 2011, policy MC8025865 was cancelled, resulting in a $3,069.00 premium reduction, including $306.90 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

177. McCullough and Assoc. failed to pay up line or refund $136.00 in premiums received regarding policy MC8025865.

FINDINGS OF FACT REGARDING WILLIAMS FAMILY ENTERPRISES

178. On or about October 7, 2010, McCullough and Assoc. purchased Occidental policy BA0694580 01 on behalf of Williams Family Enterprises.

179. On or about March 29, 2011, policy BA0694580 01 was cancelled, resulting in a $6,673.00 premium reduction, including $667.30 in commissions previously received by McCullough and Assoc. becoming unearned. McCullough and Assoc. failed to refund those unearned commissions.

180. McCullough and Assoc. failed to pay up line or refund $9,601.80 in premiums received regarding policy BA0694580 01.

CONCLUSIONS OF LAW

181. TENN. CODE ANN. § 56-6-106(b) has provided that:

> (b) A business entity may obtain an insurance producer's license; however, only an individual licensed producer or limited lines producer shall sell, solicit or negotiate a contract of insurance in this state. Application shall be made using the uniform business entity application. An individual authorized and acting on behalf of the business entity shall declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that:
>
> > (1) The business entity has paid the applicable fees set forth in § 56-6-121; and
> >
> > (2) The business entity has designated a principal or officer who also holds a current producer license responsible for the business entity's compliance with the insurance laws, rules and regulations of this state.

182. TENN. CODE ANN. § 56-6-112(a) has provided that, in pertinent part, "[t]he commissioner may place on probation, suspend, revoke or refuse to issue or renew a license issued under this part or may levy a civil penalty in accordance with this section or take any combination of those actions, for any one (1) or more of the following causes:

> (2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;
>
> (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 business in this state or elsewhere;"

183. TENN. CODE ANN. § 56-6-112(g) has provided that:

If, after providing notice consistent with the process established by § 4-5-320(c), and providing the opportunity for a contested case hearing held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, 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 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). This subdivision (g)(2) shall not apply where a statute or rule specifically provides for other civil penalties for the violation. For 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.

184. TENN. CODE ANN. § 56-2-305 has provided that:

(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 and 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.

185. McCullough and Assoc. used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in violation and improperly withheld, misappropriated, or converted money received in the course of doing insurance business. As enumerated in the Findings of Fact above and the Conclusions of Law contained herein, McCullough and Assoc. failed to pay or refund premiums and unearned commissions due and owing to various persons and business entities in violation of TENN. CODE ANN. §§ 56-6-112(a)(2), 56-6-112(a)(4), and 56-6-112(a)(8). These facts constitute grounds for a Consent Order revoking McCullough and Assoc.'s insurance producer license in accordance with TENN. CODE ANN. § 56-6-112(a)(2)(4)(8) (2008). Such facts also provide grounds for an order imposing civil penalties against McCullough and Assoc. in an amount not more than one thousand dollars ($1,000) for each separate violation committed after July 1, 2011 in accordance with TENN. CODE ANN. § 56-6-112(g) and an amount not more than twenty-five thousand dollars ($25,000) for each separate violation committed knowingly to all acts occurring prior to July 1, 2011 in accordance with TENN. CODE ANN. § 56-2-305.

186. As enumerated in the Findings of Fact above and the Conclusions of Law contained herein, Christina McCullough, the designated responsible licensed producer responsible for McCullough and Assoc.'s compliance with the insurance laws, rules and regulations of Tennessee, on behalf of McCullough and Assoc. and as the actual individual in control of the actions of McCullough and Assoc., improperly withheld, misappropriated or

converted money received in the course of doing insurance business in violation of TENN. CODE ANN. § 56-6-112(a)(4) and used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in Tennessee or elsewhere in violation of TENN. CODE ANN. § 56-6-112(a)(8). These facts constitute grounds for a Consent Order revoking the insurance producer licenses of both Christina McCullough and McCullough and Assoc. in accordance with TENN. CODE ANN. § 56-6-112(a)(4)(8). Such facts also provide grounds for an order imposing civil penalties against Christina McCullough in an amount not more than one thousand dollars ($1,000) for each separate violation committed after July 1, 2011 in accordance with TENN. CODE ANN. § 56-6-112(g) and an amount not more than twenty-five thousand dollars ($25,000) for each separate violation committed knowingly to all acts occurring prior to July 1, 2011 in accordance with TENN. CODE ANN. § 56-2-305.

187. As enumerated in the Findings of Fact above and the Conclusions of Law contained herein, Gary Wayne McCullough, a designated responsible licensed producer responsible for McCullough and Assoc.'s compliance with the insurance laws, rules and regulations of Tennessee, on behalf of McCullough and Assoc., improperly withheld, misappropriated or converted money received in the course of doing insurance business in violation of TENN. CODE ANN. § 56-6-112(a)(4) and used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in Tennessee or elsewhere in violation of TENN. CODE ANN. § 56-6-112(a)(8). For each violation, the Commissioner may place on probation, revoke or suspend the license of Gary Wayne McCullough and/or assess a civil penalty. Such facts also provide grounds for a Consent Order imposing civil penalties against Gary Wayne McCullough in an

amount not more than one thousand dollars ($1,000) for each separate violation committed after July 1, 2011 in accordance with TENN. CODE ANN. § 56-6-112(g) and an amount not more than twenty-five thousand dollars ($25,000) for each separate violation committed knowingly to all acts occurring prior to July 1, 2011 in accordance with TENN. CODE ANN. § 56-2-305.

188. Respondents neither admit nor deny the Findings of Facts but concede that the Conclusions of Law contained herein are fair and reasonable as outlined above. Respondents enter this Consent Order for the sole purpose of avoiding further administrative action with respect to this cause. Respondents hereby acknowledge the Commissioner's authority to administer the Law and concede that the Commissioner's interpretations of the statutes cited in the Conclusions of Law are reasonable and enforceable.

189. Respondents hereby agree to the entry of this Consent Order in the interest of cooperation and settlement, and to avoid the costs associated with future administrative and judicial proceedings with respect to the above matter.

ORDER

NOW, THEREFORE, based on the foregoing and Respondents' waiver of their 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 Respondents of the jurisdiction of the Commissioner, the Commissioner finds that Respondents have 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 THEREFORE ORDERED, pursuant to TENN. CODE ANN. §§ 56-6-112 that:

1. The insurance producer license, numbered 0005463, issued to Respondent, McCullough and Assoc., is hereby **REVOKED**;

2. The insurance producer license, numbered 076970, issued to Respondent, Christina McCullough, is hereby **REVOKED**;

3. The insurance producer license, numbered 0866350, issued to Respondent, Gary Wayne McCullough, is hereby placed on **PROBATION** for two years;

4. McCullough and Assoc. and Christina McCullough shall not, while without a license, conduct further business for which an insurance license is required under the Law;

5. McCullough and Assoc. and Christina McCullough shall pay the Division a penalty in the total sum of ten thousand dollars ($10,000). Such penalty is to be paid according to the following schedule:

December 1, 2013	$2,000.00
December 1, 2014	$2,000.00
December 1, 2015	$2,000.00
December 1, 2016	$2000.00
December 1, 2017	$2,000.00

6. Gary Wayne McCullough shall pay the Division a penalty in the total sum of ten thousand dollars ($10,000). Such penalty is to be paid according to the following schedule:

December 1, 2013	$2,000.00
December 1, 2014	$2,000.00
December 1, 2015	$2,000.00
December 1, 2016	$2000.00
December 1, 2017	$2,000.00

7. Any failure to timely make a payment under the terms of this agreed Order may result in additional disciplinary action being taken against Respondents including, but not necessarily limited to, revocation, suspension, or probation of the above mentioned insurance producer licenses and/or the assessment of additional civil penalties. Failure to timely make any payment shall render all remaining payments under this Order immediately due and collectible.

8. 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 Insurance and Commerce
Legal Division
Davy Crockett Tower
500 James Robertson Parkway
Nashville, TN 37243

9. 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 Respondents for violations of the Law arising out of the Findings of Fact set forth in

paragraphs six through 180 above. However, this Consent Order shall in no way preclude a third party or other authority from pursuing civil remedies or criminal action against Respondents which may otherwise be available.

10. 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, Respondents, McCullough and Assoc., Christina McCullough, and Gary Wayne McCullough affirmatively state that they have: (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) waive their right to a hearing on the matters underlying this Consent Order. Respondents further state 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 30th day of April, 2013.

Julie Mix McPeak

Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

Larry C. Knight, Jr.
Assistant Commissioner for Insurance
Department of Commerce and Insurance
Davy Crockett Tower
500 James Robertson Parkway, 4th Floor
Nashville, Tennessee 37243

James R. Witham (BPR# 30468)
Assistant General Counsel
Department of Commerce and Insurance
500 James Robertson Parkway, 8th Floor
Phone: (615) 253-7848
Fax: (615) 741-4000
james.witham@tn.gov

C.G. McCullough and
Associates, LLC
P.O. Box 21426
Chattanooga, TN 37424

Christina McCullough
8808 Fuller Road
Chattanooga, TN 37421

Gary Wayne McCullough
8808 Fuller Road
Chattanooga, TN 37421