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

IN THE MATTER OF:	)	
	)	**TID No.: 14-152**
LAWRENCE KENNETH FAIRCHILD	)	

CONSENT ORDER

The Tennessee Insurance Division of the Department of Commerce and Insurance ("Division") and Lawrence Kenneth Fairchild ("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 his respective signature on this Consent Order—scanned in portable document format (PDF) or similar format—returned by electronic means, if accepted by the Division, is effective as an original signature and that the Consent Order may be issued with such a facsimile signature.

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 Tennessee resident with an address of 2434 Garrison Cove, Murfreesboro, TN 37130-1854, which is presently on file with the Division.

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. At all times relevant hereto, Respondent maintained Insurance Producer license number 0709344 which expired on December 31, 2013.

12. Since March, 2012, and at all relevant times hereto, Respondent was a Tennessee licensed associate insurance agent for the James Adcock Agency.

13. As an insurance producer, Respondent was responsible for the proper completion and submission of applicable Certificates of Liability Insurance for his clients.

14. On or about January 24, 2013, Respondent met with Thomas Peach to write a general liability insurance policy and a worker's compensation insurance policy.

15. Mr. Peach paid Respondent seven hundred fifty dollars ($750) for a worker's compensation insurance policy.

16. Respondent accommodated Mr. Peach's desire to acquire a worker's compensation insurance policy by completing Mr. Peach's Certificates of Liability Insurance, a document required in the procurement of Mr. Peach's worker's compensation insurance policy.

17. However, Respondent failed to properly complete Mr. Peach's Certificates of Liability Insurance by providing the wrong policy number.

18. While working for the James Adcock Agency, from on or about November, 2013, to on or about December, 2013, Respondent knowingly and fraudulently withheld and misappropriated funds from insurance customer accounts in Tennessee.

19. Respondent wrongfully used these funds for his own personal use and enjoyment.

CONCLUSIONS OF LAW

20. At all times relevant hereto, Tenn. Code Ann. § 56-6-112(a) (2011) has provided that the Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license issued under Title 56, Chapter 6, Part 1, 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; [and]
>
> . . .
>
> (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;
>
> . . .

21. For all violations occurring on or after July 1, 2011, Tenn. Code Ann. § 56-6-112 (2011), states in pertinent part:

> (e) 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.
>
> (g) If . . . 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 subsection (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.

(h) In determining the amount of penalty to assess under this section, the commissioner shall consider:

(1) Whether the person could reasonably have interpreted such person's 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) The circumstances leading to the violation;

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

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

(6) The interest of the public; and

(7) The person's efforts to cure the violation.

22. Respondent:

(1) Improperly withheld, misappropriated or converted moneys received in

the course of doing insurance business; and

(2) Used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this state or elsewhere.

23. As enumerated in the Findings of Fact above and the Conclusions of Law contained herein, Respondent violated Tenn. Code Ann. § 56-6-112(a)(4) and (a)(8).

24. The Findings of Fact contained herein constitute grounds for a Consent Order revoking Respondent's Insurance Producer license in accordance with Tenn. Code Ann. § 56-6-112(g)(3). Such facts also provide grounds for an order imposing civil penalties against Respondent 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).

ORDER

NOW, THEREFORE, based on the foregoing and Respondent's waiver 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 admits to the Findings of Fact and Conclusions of Law contained herein, 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. § 56-6-112 (2011) that:

1. The Insurance Producer license, numbered 0709344, issued to Respondent, Lawrence Kenneth Fairchild, is 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 monetary civil penalty in the total sum of two thousand dollars ($2,000). Such penalty is to be paid according to the following schedule:

February 1, 2015,	$500.00;
March 1, 2015,	$500.00;
April 1, 2015,	$500.00; and
May 1, 2015,	$500.00.

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 and/or the assessment of additional civil monetary penalties.

5. 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.

6. A payment shall be considered timely made if it is **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 payable to the "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, 8th Floor
Nashville, TN 37243

7. **IT IS FURTHER ORDERED** that all persons in any way assisting, aiding, or helping Lawrence Kenneth Fairchild 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 19 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 best interest of both the public and the parties and represents a compromise and settlement of the controversy between the parties. By his signature affixed below, Respondent, Lawrence Kenneth Fairchild, states that he 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 his 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.

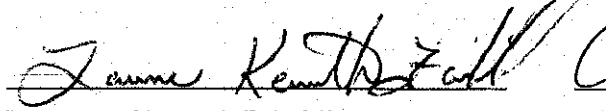
IT IS SO ORDERED.

ENTERED this the 22nd day of January, 2015.

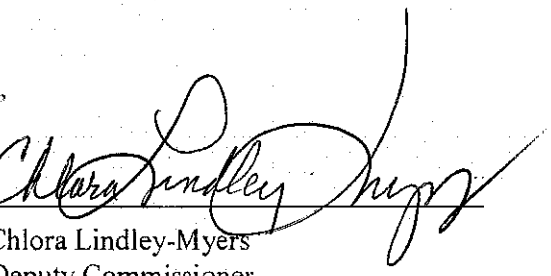
Julie Mix McPeak

Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

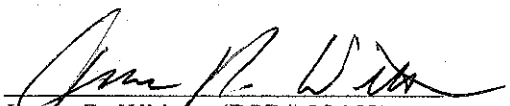
APPROVED FOR ENTRY:



Lawrence Kenneth Fairchild
2434 Garrison Cove
Murfreesboro, TN 37130-1854



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



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