0765504

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

TENNESSEE INSURANCE DIVISION, Petitioner,	)	
vs.	)	No.: 08-141
LINDA M. MORAN, Respondent.	)	

CONSENT ORDER

The Insurance Division of the Department of Commerce and Insurance of the State of Tennessee (the "Division") and Linda Moran ("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 shall have no force and effect until such acceptance is evidenced by its entry by 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 and agrees 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 or omissions that do not arise from the facts or transactions specified herein. Respondent further understands and agrees that this Consent Order may be used and taken in consideration by the Commissioner, or other Commissioner, Department or Board to revoke or refuse issuance of any license any license currently held by Respondent or for which the Respondent may in the future apply.

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 the Consent Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Consent Order by the Commissioner.

FINDINGS OF FACT

1. The Commissioner of the Department of Commerce and Insurance for the State of Tennessee (the "Commissioner") has jurisdiction pursuant to the Tennessee Insurance Law (the "Law"), TITLE 56 of the Tennessee Code, and the Law places responsibility for administration of its provisions on the Commissioner.

2. 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.

3. Respondent is a citizen and resident of Tennessee, residing at 111 Morton Avenue, Fayetteville, Tennessee 37334. Respondent has been licensed by the Division to sell insurance in the State of Tennessee, having been issued license number 765504, since July 15, 1996.

4. In February 1991, Respondent entered a guilty plea to charges of embezzlement in the United States District Court , Eastern District of Tennessee, having stolen twenty-six thousand one hundred fifty dollars and sixty-five cents ($26,150.65) from her employer,

Raytheon Federal Credit Union. Respondent made restitution prior to judgment and was sentenced to three years probation, from February 11, 1991 until February 10, 1994.

5. Also in February 1991, Respondent obtained employment with Dixie Smith Insurance Agency ("DSIA"), and continued such employment, performing various bookkeeping and general office duties, until December 21, 2007.

6. In 1996, Respondent requested and was granted a waiver to make application for an insurance producer license. A Tennessee insurance producer license, numbered 765504, was issued July 15, 1996.

7. In a letter dated February 2, 2008, the owner of DSIA, Dixie Smith, notified the Division that an internal investigation had disclosed that Ms. Moran had misappropriated seventy-two thousand four hundred forty-five dollars and eight cents ($72,445.08) from DSIA general and sweep accounts.

8. In a sworn statement provided to the Tennessee Bureau of Investigation on March 6, 2008, Respondent admitted that she had taken moneys from DSIA accounts and, in a letter to the Division dated April 29, 2008, Respondent stated that that she wished to voluntarily surrender her license.

CONCLUSIONS OF LAW

1. TENN. CODE ANN. § 56-6-112(a) provides, in pertinent part, that "[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 subsection (e) or take any combination of such actions, for any one or more of the following causes:

> (2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;
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> . . . .

(4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

. . . .

(7) Having admitted or been found to have committed any insurance unfair trade practice or fraud;

. . . .

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

. . . . .

2. TENN. CODE ANN. § 56-6-112(e) provides as follows:

With respect to any person licensed or required to be licensed under this part, and in addition to or in lieu of any applicable denial, suspension or revocation of a license, the commissioner may assess a civil penalty against such person in an amount not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each separate violation of a statute, rule or order pertaining to the sale, solicitation or negotiation or insurance in this state. Each day of continued violation constitutes a separate violation.

3. TENN. CODE ANN. § 56-53-103(a) provides that any person who commits, or participates in any of the following acts with an intent to induce reliance, has committed an unlawful insurance act:

(1) Presents, causes to be presented, or prepares with knowledge or belief that it will be presented, by or on behalf of an insured, claimant or applicant to an insurer, insurance professional or a premium finance company in connection with an insurance transaction or premium finance transaction, any information which the person knows to contain false representations, or represents the falsity of which the person has recklessly disregarded, as to any material fact, or which withholds or conceals a material fact, concerning any of the following:

(A) The application for, rating of, or renewal of, any insurance policy;

(B) A claim for payment or benefit pursuant to any insurance policy;

(C) Payments made in accordance with the terms of any insurance policy; or

(D) The application for the financing of any insurance premium.

. . . .

4. Based upon the Findings of Fact cited above and the Conclusions of Law contained herein, the Commissioner considers the actions of Respondent to be in violation of

TENN. CODE ANN. § 56-6-112(a) (2), (4), (7), (8) and § 56-53-103. Respondent is therefore subject to sanctions set forth in TENN. CODE ANN. §56-6-112(a) and §56-6-112(e).

5. Respondent hereby admits to all Findings of Fact stated in paragraphs 1-8, above, understands that such Findings subject her to sanctions pursuant to TENN. CODE ANN. § 56-6-112, and acknowledges the Commissioner's authority to administer said statutes, concedes that the Commissioner's interpretation of the statutes cited herein, as set forth in the Conclusions of Law, is correct and enforceable. Therefore, Respondent, in order to avoid any further expenses or costs associated with litigating this matter, hereby agrees to entry of this Consent Order.

ORDER

NOW, THEREFORE, on the basis of the foregoing and the waiver by Respondent of her rights to a hearing and appeal under the Tennessee Insurance Law and Tennessee's Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101, *et seq.*, and acknowledgment of the jurisdiction of the Commissioner, the Commissioner finds that Respondent has agreed to the entry of this Consent Order and that such Order is appropriate, in the public interest and necessary for the protection of the public.

IT IS ORDERED, pursuant to TENN. CODE ANN. §56-6-112(a), that the insurance producer license held by Respondent, Linda M. Moran, license numbered 765504, is hereby **REVOKED**. Respondent hereby agrees to conduct no further business for which a license is required under the Law.

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 1-8 above. However, this Order shall in no way preclude a third party from pursuing civil remedies or criminal action against Respondent which may otherwise be available.

This Consent Order is in the public interest and best interests of the parties, represents a compromise and settlement of the controversy between the parties, and is for settlement purposes only. By the signatures affixed below, Respondent affirmatively states that she has: (a) freely agreed to the entry of this Consent Order; (b) been advised of her right to legal counsel and afforded the opportunity to do so; (c) reviewed the Findings of Fact and Conclusions of Law contained herein; and (d) waived her right to a hearing on the matters set forth in this Consent Order and the Findings of Fact and Conclusions of Law contained herein. 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.

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

SO ORDERED.

ENTERED this the 28th day of October, 2008.

Leslie A. Newman, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

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Linda M. Moran

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