

TN # 0695416
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BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE

NPN-1677881

TENNESSEE INSURANCE DIVISION,)
Petitioner,)
vs.)
LORI YOUNG SWAFFER,)
Respondent.)

No: 11-103

CONSENT ORDER

The Insurance Division of the Tennessee Department of Commerce and Insurance ("Insurance Division"), by and through counsel, and Lori Young Swaffer ("Respondent") hereby stipulate and agree, subject to the approval of the Commissioner of Commerce and Insurance ("Commissioner"), as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Consent Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evinced by the entry of the Commissioner.
2. The Commissioner has determined that the resolution set forth in this Consent Order is fair and reasonable and in the best public interest.
3. This Consent Order is executed by Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Consent Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Consent Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

4. Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against Respondent for acts and/or omissions not specifically addressed in this Consent Order or for acts and/or omissions that do not arise from the facts or transactions herein addressed. Respondent also understands that this Consent Order may be used by the Commissioner or any Commissioner, Department or Board to revoke or refuse to issue any license Respondent currently holds or for which Respondent applies in the future.

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

JURISDICTION

6. The Commissioner has jurisdiction pursuant to the Tennessee Insurance Law (the "Law"), TENN. CODE ANN. §§ 56-6-101 *et seq.*, and the Law places the responsibility for the administration of the Law on the Commissioner.

PARTIES

7. The Insurance Division is the lawful agent through which the Commissioner administers the Law and is authorized to bring this action for the protection of the public.

8. Respondent is a resident of Tennessee, residing at 2157 Old Lake Cove, Memphis, Tennessee 38119. Respondent's insurance producer license, numbered 695416, was issued in 1988. Respondent conducts the business of insurance from her agency, Swaffer and Associates, located at 2564 Covington Pike, Memphis, Tennessee 38128.

FACTUAL ALLEGATIONS

9. On approximately January 31, 2009, a Tennessee resident and sub-contractor, Cesar Alonzo Limones Hernandez ("Hernandez"), paid Respondent seven hundred fifty dollars

(\$750) for workers' compensation insurance coverage. Respondent provided Hernandez with a certificate of insurance indicating proof of workers' compensation insurance coverage with Berkley Insurance Company ("Berkley").

10. On approximately February 2, 2010, Hernandez renewed his workers' compensation insurance policy through Respondent by paying an additional seven hundred fifty dollars (\$750). Once again, Respondent provided Hernandez with a certificate of insurance indicating proof of workers' compensation insurance coverage with Berkley.

11. On approximately November 3, 2010, an audit by Hernandez's general contractor, Denham Drywall Company, determined that Hernandez's workers' compensation insurance policies had invalid policy numbers and that Respondent never remitted Hernandez's premium payments to Berkley.

12. Respondent fully refunded Hernandez's premium payments for both years.

CONCLUSIONS OF LAW

13. TENN. CODE ANN. § 56-6-112(a)(4) (2008) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license and/or may levy a civil penalty for anyone who improperly withholds, misappropriates or converts any moneys or properties received in the course of doing insurance business.

14. TENN. CODE ANN. § 56-6-112(a)(8) (2008) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license and/or may levy a civil penalty for anyone who uses fraudulent, coercive or dishonest practices or demonstrates incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

15. Based on the Factual Allegations cited above, the Commissioner finds that Respondent improperly misappropriated moneys received in the course of doing insurance business

and demonstrated dishonest practices, incompetence, untrustworthiness or financial irresponsibility in the conduct of business. Such facts constitute grounds for an Order revoking Respondent's insurance producer license and assessing a civil penalty against her based on violations of TENN. CODE ANN. § 56-6-112(a)(4) and (8) (2008).

ORDER

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

IT IS ORDERED, pursuant to TENN. CODE ANN. § 56-6-112(a) (2008) that:

The insurance producer license, numbered 695416, issued to Lori Young Swaffer, is hereby **REVOKED**.

IT IS FURTHER ORDERED, pursuant to TENN. CODE ANN. § 56-2-305(a)(2) (2008) that:

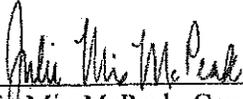
Respondent be assessed a civil penalty in the amount of two thousand dollars (\$2,000) to be deposited into the Department's Education Fund.

This Consent Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By signature affixed below, Lori Young Swaffer, affirmatively states that she has freely agreed to the entry of this Consent Order, that she has been advised that she may consult with legal counsel in this matter, that she waives the right to a hearing on the matters underlying this Consent Order and that no threats or promises of any kind have been made by the Commissioner, the Insurance Division or any agent thereof. The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or

offers relating to the circumstances described herein, other than the terms of settlement set forth in this Consent Order, are binding upon them.

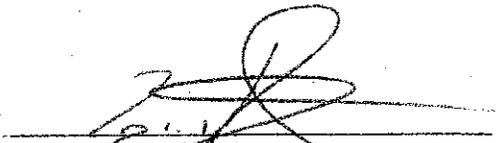
IT IS ORDERED.

ENTERED this the 8th day of December, 2011.

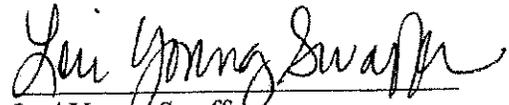


Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:



Larry C. Knight, Jr.
Assistant Commissioner for Insurance
Department of Commerce and Insurance



Lori Young Swaffer
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