Agent # 0015560

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

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| **TENNESSEE INSURANCE DIVISION,** | ) | |
| **Petitioner,** | ) | |
| | ) | |
| **vs.** | ) | **No.: 12.01-059533J** |
| | ) | |
| **HARRY E. BURKHEAD** | ) | |
| **Respondent.** | ) | |

## AGREED ORDER

The Tennessee Insurance Division (hereinafter referred to as the "Division") and Harry E. Burkhead (hereinafter referred to as the "Respondent") agree to the entry of this Agreed Order subject to the approval of the Commissioner of Commerce and Insurance (hereinafter referred to as the "Commissioner").

## GENERAL STIPULATIONS

1. It is expressly understood that this Agreed Order is subject to the Commissioner's acceptance and has no force and effect until such acceptance is evidenced by the entry of the Commissioner.

2. This Agreed Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Agreed Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Agreed 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 Agreed Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts or omissions not specifically addressed in this Agreed Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed, nor does it preclude additional proceedings against the Respondent based upon these facts or transactions herein addressed by any other government agency or law enforcement authority or preclude the Division's assistance to such agency or law enforcement authority. Respondent also understands that the facts contained in this Agreed Order may be used to deny any future application for licensure in which the Respondent may file with the Commissioner.

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

## FINDINGS OF FACT

1. The Tennessee Insurance Law, as amended, Tenn. Code Ann. §§ 56-1-101, *et seq.* (hereinafter referred to as the "Law"), places the responsibility for the administration of the Law on the Commissioner. The Insurance Division of the Department of Commerce and Insurance (hereinafter referred to as the "Division") is the lawful agent through which the Commissioner discharges this responsibility.

2. The Respondent, Harry E. Burkhead, is a resident of Henderson and a citizen of Tennessee residing at 635 Hickory Corner Road, Henderson, Tennessee, 38340.

3. At all relevant times hereto, the Respondent has held an insurance producer license, numbered 015560.

4. The Respondent sold a nine (9) month World Vision, Inc. (hereinafter referred to as "World Vision") promissory note in the amount of Thirty Thousand, Three Hundred and Sixty Two Dollars and Eighty Cents ($30,362.80) to Elbert and Mary Brooks of Henderson, Tennessee.

5. The Respondent sold a nine (9) month PhyMed Partners, Inc. (hereinafter referred to as "PhyMed") promissory note in the amount of Fifty Thousand Dollars ($50,000) to Elbert and Mary Brooks.

6. The Respondent sold a nine (9) month PhyMed promissory note in the amount of Fifty Thousand Dollars ($50,000) to Ray and Nancy Walker of Humboldt, Tennessee.

7. The Respondent sold a nine (9) month World Vision promissory note in the amount of Thirty Thousand Dollars ($30,000) to Dale Hearn of Henderson, Tennessee.

8. The Respondent sold a nine (9) month World Vision promissory note in the amount of One Hundred Thousand Dollars ($100,000) to Hazel Hearn of Henderson, Tennessee.

9. The Respondent engaged in the sale of securities in this State in violation of Tenn. Code Ann. §§ 48-2-104 and 48-2-109.

10. The Respondent states that he did not knowingly sell securities that were not registered and that the Respondent needed to be licensed to sell those products.

## CONCLUSIONS OF LAW

11. Tenn. Code Ann. § 56-6-112(a)(2) provides, in pertinent part, that the Commissioner may place on probation, suspend, or revoke an insurance producer license or may levy a civil penalty in accordance with subsection (e), or take any combination of such actions upon finding that an insurance producer has violated any law, rule, subpoena or order of the Commissioner.

12. Tenn. Code Ann. § 48-2-104 provides that it is unlawful for any person to offer and/or sell any security in this state unless it is registered pursuant to the Act, the security transaction is exempted under Tenn. Code Ann. § 48-2-103, or the security is a covered security.

13. Tenn. Code Ann. § 48-2-109(a) provides that it is unlawful for any person to transact business from or in this state as a broker-dealer or agent unless such person is registered as a broker-dealer or agent pursuant to the Act.

14. Based upon the Findings of Fact cited above and the Conclusions of Law contained herein, the Commissioner considers the actions of the Respondent to be in violation of Tenn. Code Ann. §§ 48-2-104 and 48-2-109 and to provide grounds for imposition of sanctions set forth in Tenn. Code Ann. § 56-6-112(a)(2).

15. The Respondent hereby admits to the Findings of Fact state above. The Respondent hereby also acknowledges the Commissioner's authority to administer said statutes and concedes that the Commissioner's interpretation of the statutes, as set forth in the Conclusions of Law, are reasonable and enforceable. Therefore, the Respondent, in order to avoid any further expenses or costs associated with litigating this matter, hereby desires to enter into the Agreed Order.

## ORDER

**NOW, THEREFORE**, on the basis of the foregoing, and the waiver by the Respondent of his rights to a hearing and appeal under the Tennessee Securities Act, the Tennessee Insurance Law and Tennessee's Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101, *et seq.*, and the admission by the Respondent of the jurisdiction of the Commissioner, the Commissioner finds that the Respondent has agreed to the entry of this Order and that this Order is appropriate, in the public interest and necessary for the protection of investors.

**IT IS ORDERED**, pursuant to Tenn. Code Ann. § 56-6-112 that:

The Respondent's insurance producer license numbered 015560, and all other licenses authorizing the Respondent to sell any type of insurance in the State of Tennessee are hereby **REVOKED**.

**IT IS FURTHER ORDERED** that the Order represents the complete and final resolution of, and discharge with respect to all administrative actions and causes of action by the Commissioner against the Respondent for violations of the Act arising out of the Findings of Fact above.

This Agreed 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 the signatures affixed below, the Respondent affirmatively states that he has freely agreed to the entry of the Agreed Order, that he has been advised that he may consult legal counsel in this matter, and has had the opportunity to consult with legal counsel should he have desired to do so, that he waives his right to a hearing on the matters underlying this Agreed Order and to review of the Findings of Fact and Conclusions of Law contained herein, and that no threats

or promises of any kind have been made by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Agreed Order, affirmatively state their agreement to be bound by the terms of the Agreed Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in the Agreed Order, are binding upon them.

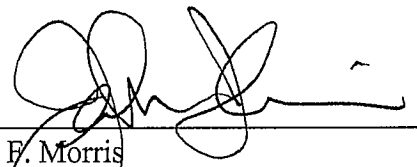
**SO ORDERED**

Entered this 9th day of April, 2007.

Leslie A. Newman

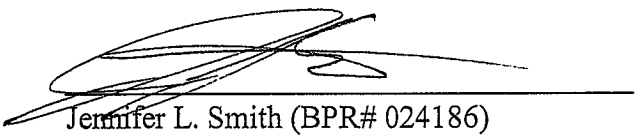
Leslie A. Newman, Commissioner
Department of Commerce and Insurance

**APPROVED FOR ENTRY:**



John F. Morris
Acting Assistant Commissioner for Insurance
Department of Commerce and Insurance
500 James Robertson Parkway
Fourth Floor, Davy Crockett Tower
Nashville, Tennessee 37243

Harry E. Burkhead
Respondent



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