STATE OF TENNESSEE
BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE

IN THE MATTER OF:	)	
	)	
DEREK A. SIEWERT	)	**TID Order No. 16-003**
	)	
	)	

CONSENT ORDER

The Insurance Division of the Tennessee Department of Commerce and Insurance ("Division"), by and through counsel, and Derek A. Siewert ("Siewert") hereby stipulate and agree, 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 the Commissioner.

2. This Consent Order is executed by Siewert 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. Siewert fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner for acts and/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. Siewert fully understands that this Consent Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for violations of Title 56 of the Tennessee Code Annotated addressed specifically in this Consent Order, against Siewert for violations of 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 arise as a result of the execution of this Consent Order by Siewert.

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

6. Siewert 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. Siewert agrees that facsimiles of their respective signatures on this Consent Order—scanned in portable document format (PDF) or similar format—returned by electronic means, if accepted by the Division, are effective as original signatures and that the Consent Order may be issued with such facsimile signatures.

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, specifically Tenn. Code Ann. §§ 56-1-101, 56-1-202, 56-2-305 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. Siewert is a citizen and resident of the State of Florida. Siewert's address of record on file with the Division is 4487 Cathys Club Lane, Jacksonville, Florida 32224. Siewert obtained his nonresident insurance producer license number 2267844, on or about March 8, 2014, and has a current expiration date of April 30, 2016.

FINDINGS OF FACT

11. On or about April 4, 2014, Siewert entered into a Consent Order with the Insurance Department of the Commonwealth of Pennsylvania. The Consent Order revoked Siewert's Pennsylvania insurance producer license and imposed a fifty thousand dollar ($50,000) penalty against Siewert.

12. The violations included in the aforementioned Consent Order were intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance; demonstrating a lack of general fitness, competence or reliability; transacting business within Pennsylvania without the required written appointment; and acting on behalf of an insurer without being appointed by the insurer.

13. Siewert failed to inform the Commissioner of the administrative action taken against him.

CONCLUSIONS OF LAW

14. Tenn. Code Ann. § 56-6-112(a) provides that the Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license issued under this part and/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:

> ....
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> (2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;
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> ....
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> (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory[.]
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> ....

15. Tenn. Code Ann. § 56-6-119(a) states that "[a] producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of any order entered or other relevant legal documents."

16. Tenn. Code Ann. § 56-6-112(a) (2011), states in pertinent part:

> ....
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> (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.
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> ....

(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 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.

(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.

17. Based upon the Findings of Fact stated above and the Conclusions of Law contained herein, the Commissioner considers the actions of Siewert to be in violation of Tenn. Code Ann. §§ 56-6-112(a)(2) and (9), and Tenn. Code Ann. § 56-6-119(a) for having his

insurance producer license revoked in another state and failing to inform the Commissioner of the administrative action taken against him. Such facts provide grounds for the revocation of Siewert's insurance producer license in accordance with Tenn. Code Ann. § 56-6-112(g).

18. In order to avoid any further expenses or costs associated with litigating this matter in any administrative or judicial proceedings, Siewert hereby acknowledges the Commissioner's authority to administer the statutes cited herein, concedes that the Commissioner's interpretation of the statutes cited in the Conclusions of Law are reasonable and enforceable, and agrees to the entry of this Consent Order including each of the sanctions ordered by the Commissioner.

ORDER

NOW, THEREFORE, on the basis of the foregoing, and Siewert's waiver of the right to a hearing and appeal under the Law and the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 to 4-5-404, and Siewert's admission of jurisdiction of the Commissioner, the Commissioner finds that Siewert, for the purpose of settling this matter admits to the Conclusions of Law, agrees to the entry of this Order and agrees that this Order is in the public interest, necessary for the protection of consumers and consistent with the purposes fairly intended by the policy and provisions of the Law.

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

1. Insurance producer license number 2267844, issued to Siewert, is hereby **REVOKED**, beginning immediately upon final execution of this Order.

2. In addition, it is further **ORDERED** that all persons in any way assisting, aiding, or helping Siewert 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 of, and discharge with respect to all administrative and civil, claims, demands, actions and causes of action by the Commissioner against Siewert for violations of Tenn. Code Ann. §§ 56-6-112 and 56-6-119 alleged by the Division to have occurred with respect to the transactions involving the facts contained herein.

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 the signatures affixed below, Siewert affirmatively states he has freely agreed to the entry of this Consent Order, that he waives the right to a hearing on the matters underlying this Consent Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made to him by the Commissioner, the Division, or any agent or representative 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 the settlement as set forth in this Consent Order, are binding upon them.

ENTERED this 11th day of April, 2016.

Julie Mix McPeak

Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

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