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STATE OF TENNESSEE
BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE

TENNESSEE INSURANCE DIVISION,	)	
Petitioner,	)	
	)	**Docket No. 12.04-134933J**
vs.	)	**TID No. 15-114**
	)	
RUSSELL H. ARMSTRONG,	)	
Respondent.	)	

AGREED FINAL ORDER

The Insurance Division ("Division") of the State of Tennessee Department of Commerce and Insurance ("Department"), by and through undersigned counsel, and Russell H. Armstrong ("Respondent") 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 Agreed Final 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 Final Order is executed by Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Agreed Final Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Agreed Final 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 Final Order will in no way preclude additional proceedings by the Commissioner for acts and/or omissions not specifically addressed in this Agreed Final Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. Respondent fully understands that this Agreed Final Order will in no way preclude proceedings by state government representatives, other than this proceeding brought by the Commissioner for violations of Title 56 of the Tennessee Code Annotated addressed specifically in this Agreed Final Order, against Respondent 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 Respondent.

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

AUTHORITY AND JURISDICTION

6. 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

7. 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.

8. Respondent is believed to be a citizen of the State of Illinois, with an address of record on file with the Division of 220 Birch Avenue, Lake Bluff, IL 60044-1675. Respondent is currently serving a term of imprisonment at the Duluth Federal Prison Camp (FPC), with a current release date of May 27, 2017. His current mailing address is FPC Duluth, Federal Prison Camp, P.O. Box 1000, Duluth, MN 55814. Respondent obtained his Tennessee nonresident insurance producer license number 2253135, on or about September 5, 2013. Respondent's Tennessee insurance producer license was scheduled to expire on May 31, 2016; however, on June 1, 2014, his Tennessee license was canceled due to the expiration of his Illinois resident insurance producer license.

FINDINGS OF FACT

9. In 2012 and 2013, Respondent sold life insurance and annuities for Occidental Life Insurance Company of North Carolina ("Occidental"), Madison National Life Insurance Company ("Madison"), and Aviva Life and Annuity Company ("Aviva"), among others.

10. On or about October 2012, and continuing through at least March 2013, Respondent intentionally devised a scheme to fraudulently obtain commission payments by deceptively persuading certain United States Postal Service employees ("victims") to purchase life insurance policies and annuities under false pretenses and by falsifying the application forms and forging signatures on the paperwork necessary to obtain these policies and annuities in the names of these victims.

11. Respondent misled these victims into thinking he was a financial advisor associated with the federal government to help explain to employees their benefits, and deceived more than twenty (20) Alaska victims into unwittingly purchasing these insurance products and annuities by withdrawing, transferring, or redirecting money from their federal retirement, saving, and payroll accounts.

12. In several cases, Respondent gained access to his victims' web-based federal employee management accounts on the Postal Ease website in order to set up regular payroll allotments directed to pay for the policies he "sold" to them. This action on Respondent's part had the effect of concealing from his victims that these financial products were not part of the federal government's benefits or retirement system.

13. In December 2012, Respondent's associate solicited the victims with a survey mailed to their workplaces that was designed to look as if it was from the U.S. Postal Service's headquarters in Washington, DC. If an individual completed the survey indicating that he or she did not understand his or her benefits, Respondent requested a Government Benefits Advisors' employee to contact the employee to set up an appointment.

14. Government Benefits Advisors, LLC ("GBA"), was a limited liability company which Respondent registered in the state of Texas, and through which Respondent organized federal government employee benefits investment seminars and/or private individual consultations.

15. Respondent allowed these employees to believe that he and GBA were associated with the U.S. Postal Service's Human Resources office for the purpose of explaining their benefits, and advised various employees to liquidate securities within their Thrift Savings Plan ("TSP") in order to purchase fixed annuities, under the premise that their returns would be

greater with these annuity products. He did not disclose to these employees the fact that he was a private insurance producer receiving commissions.

16. In furtherance of the scheme, Respondent sought and obtained ID and PIN numbers from at least ten (10) postal employees, which allowed him to access the individuals' online payroll accounts. He then made changes to the employees' TSP investment allocations and liquidated securities, using the funds to purchase private annuities which he was selling. Respondent then forged the signatures of the employees to the annuity paperwork, and never provided these employees with copies of such paperwork.

17. After submitting the life insurance and annuity applications relative to these victims, Respondent then destroyed the originals of the applications and maintained no copies as required by Alaska law, to conceal his forgeries of the victims' initials and signatures, and his falsification of their medical information on such applications.

18. In completing some of the paperwork on these applications, Respondent fraudulently used his wife's notary public stamp from Illinois to falsely attest that she had witnessed the signatures of certain Alaska victims on such applications. This action on Respondent's part violated Illinois and Alaska state laws that limit the use of a notary public stamp to the person it was issued to in the state where it was issued.

19. In total, Respondent wired or mailed approximately twenty-two (22) falsified life insurance applications to Occidental and Madison, and approximately twenty-four (24) falsified annuity applications to Occidental, Madison, and Aviva as part of this fraudulent scheme. The commissions that Respondent attempted to obtain for himself and his associates as part of this scheme totaled approximately eighty-eight thousand two hundred dollars ($88,200).

20. In November 2012, within his application for a nonresident Alaska insurance producer license, Respondent falsely indicated that he had not been a party to an administrative proceeding, knowing that he had been investigated by the Illinois Securities Department regarding allegations that he had illegally offered investment advice to these victims without being registered with the Illinois Secretary of State. Respondent also knew that the Securities Department of the Illinois Secretary of State had entered a Temporary Order of Prohibition against him as a result of this administrative proceeding, on October 24, 2012.

21. On November 3, 2014, the U.S. Attorney for the District of Alaska filed a ten (10) count Information against Respondent charging him with mail fraud and wire fraud in violation of 18 U.S.C. §§ 1341 and 1343 regarding his actions as set forth in paragraphs 8-19 above, and regarding other components of Respondent's scheme to defraud the victims. Respondent was alleged to have forged signatures of victims in each of the (ten) 10 separate counts.

22. Respondent and the United States also filed a Plea Agreement on November 3, 2014, in which Respondent pled guilty to all ten (10) Counts of said Information.

23. On April 27, 2015, the U.S. District Court for the District of Alaska entered judgment of conviction against Respondent and sentenced him to twenty-four (24) months imprisonment for these felony offenses in the custody of the U.S. Bureau of Prisons ("BOP"). After serving his term of imprisonment, Respondent was ordered to serve three (3) years of supervised release.

24. A Restitution Order was filed by the court on July 6, 2015, requiring Respondent to pay a total of twelve thousand, two hundred and twenty-seven dollars ($12,227) in restitution to eleven (11) victims. According to this order, Respondent was to pay two thousand dollars

($2,000) of this amount before reporting for his term of imprisonment, and the balance after his release.

25. According to the BOP's website as of October 15, 2015, Respondent is serving his term of imprisonment at the Duluth Federal Prison Camp (FPC) in Duluth, Minnesota, with a release date of May 27, 2017. Further, according to this website, any inmate mail for Respondent should be sent to him at FPC Duluth, Federal Prison Camp, P.O. Box 1000, Duluth, MN 55814.

26. Respondent did not report to the Commissioner this federal criminal prosecution within thirty (30) days after his initial pretrial hearing date, nor did he ever make such a report.

27. Respondent has never reported to the Commissioner the Temporary Order of Prohibition filed against him by the Securities Department of the Illinois Secretary of State on October 24, 2012, and he has not reported at least two (2) additional administrative actions taken against him since 2014 -- the Ohio Insurance Commissioner's entry of a Surrender for Cause against Respondent based on forgery and intentional misrepresentation dated April 14, 2014, and the Alaska Commissioner's entry of a Stipulated Agreement and Order revoking Respondent's Alaska producer license and imposing a stayed twenty-five thousand dollars ($25,000) civil penalty, dated August 20, 2015.

28. The Ohio order surrendering Respondent's Ohio license for cause (while he was under investigation) terminates Respondent's prior license, and he must wait at least five (5) years before he is eligible to apply for modification of this order or for a new license in Ohio. The Alaska Stipulated Agreement and Order permanently revoked his Alaska producer license.

29. On January 4, 2016, the Division, through counsel, filed a Notice of Hearing and Charges against the Respondent relating to his federal criminal conviction, and his failures to

report to the Commissioner his prosecution or the disciplinary actions taken against him in other states as set out above.

CONCLUSIONS OF LAW

30. Respondent's actions as set forth above in the foregoing Findings of Fact, have violated TENN. CODE ANN. §§ 56-6-112(a)(2), (a)(6), (a)(7), (a)(8), (a)(9), & (a)(10), which read as follows:

> (a) The 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 this section or take any combination of those actions, for any one (1) or more of the following causes:
>
> ....
>
> (2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;
>
> ....
>
> (6) Having been convicted of a felony;
>
> (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;
>
> (9) Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province district or territory; [and]
>
> (10) Forging another's name to an application for insurance or to any document related to an insurance transaction[.]
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> ....

31. Respondent's actions, as set out in the foregoing Findings of Fact, constitute violations of TENN. CODE ANN. §§ 56-6-119(a) & (b), which read as follows:

(a) 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. The report shall include a copy of any order entered or other relevant legal documents.

(b) Within thirty (30) days of the initial pretrial hearing date, a producer shall report to the commissioner any criminal prosecution of the producer taken in another jurisdiction. The report shall contain a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

32. Respondent's violations of TENN. CODE ANN. §§ 56-6-112(a)(2), (a)(6), (a)(7), (a)(8), (a)(9), & (a)(10), and 56-6-119(a) & (b), constitute grounds for the imposition of lawful discipline, including the assessment of civil penalties, as prescribed at TENN. CODE ANN. §§ 56-6-112(g)(1), (2) & (3), which read as follows:

(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.

33. Based upon the above Findings of Fact and Conclusions of Law, the Commissioner considers that the Respondent's actions warrant the imposition of lawful

discipline, to include assessment of a civil penalty in accordance with Tenn. Code Ann. § 56-6-112(g)(1), (2) & (3).

34. In order to avoid further expenses or costs associated with additional administrative litigation of this matter or judicial review, Respondent 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 Agreed Final Order including each of the following sanctions ordered by the Commissioner.

ORDER

NOW, THEREFORE, on the basis of the foregoing, and Respondent's waiver of the right to a hearing and appeal under the Act and the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101 to 4-5-404 (2011), and Respondent's admission of jurisdiction of the Board, the Board finds that Respondent, for the purpose of settling this matter, admits the Findings of Fact and Conclusions of Law, agrees to the entry of this Agreed Final Order and agrees that this Order is in the public interest and is consistent with the purposes fairly intended by the Act.

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

1. Respondent's Tennessee nonresident insurance producer license (No. 2253135) **is hereby PERMANENTLY REVOKED.**

2. Respondent shall not apply or seek to be licensed, certified, or registered in the future in any of the professions or fields of business regulated by the Department.

3. Respondent **is ASSESSED a CIVIL PENALTY** in the amount of eighteen thousand dollars ($18,000), with the entire amount suspended. If Respondent violates any provision of this Order, this state's insurance or securities statutes or regulations, or any other statutes or regulations applicable to the Department in the future, the entire eighteen thousand dollars ($18,000) civil penalty will be immediately due.

4. All persons in any way assisting, aiding, or helping Respondent 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 Agreed Final 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 Respondent for violations of Tenn. Code Ann. §§ 56-6-112 and 56-1-119 alleged by the Division to have occurred with respect to the transactions involving the facts contained herein, with the exception of any future action which may become necessary to enforce and/or collect the suspended eighteen thousand dollars ($18,000) civil penalty.

This Agreed Final 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, Respondent affirmatively states he has freely agreed to the entry of this Agreed Final Order, that he waives the right to a hearing on the matters underlying this Agreed Final 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 Agreed Final Order, affirmatively state their agreement to be bound by

the terms of this Agreed Final 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 Agreed Final Order, are binding upon them.

ENTERED this 24th day of February, 2016.

Julie Mix McPeak

Julie Mix McPeak, Commissioner
TN Department of Commerce and Insurance

APPROVED FOR ENTRY:

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Filed in the Office of the Secretary of State, Administrative Procedures Division, this 15 day of March, 2016.

J. Richard Collier

J. Richard Collier, Esq., Director, Administrative Procedures Division