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

IN THE MATTER OF:	)	
	)	**TID No.: 14-155**
SHARON KAYE ANDERSON	)	

CONSENT ORDER

The Tennessee Insurance Division of the Department of Commerce and Insurance ("Division") and Sharon Kaye Anderson ("Respondent") hereby stipulate and agree to the entry of this Consent Order, 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 an order by the Commissioner.

2. This Consent Order is executed by the 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.

3. Respondent fully understands 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 and/or omissions that do not arise from the facts or transactions herein addressed.

4. Respondent fully understands that this Consent Order will in no way preclude proceedings by state government representatives, other than the Commissioner for violations of the law addressed specifically in this Consent Order, against the Respondent for violations of the 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 may arise as a result of the execution of this Consent Order by the Respondent.

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

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

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 ("Tenn. Code Ann."),

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. Respondent is a Tennessee resident with an address of 3500 McFadden Drive, Oakland, TN 38060, which is presently on file with the Division.

FINDINGS OF FACT

11. Respondent is a licensee of the Division who has, at all times relevant hereto, been responsible for compliance with the insurance laws, rules and regulations of the State of Tennessee. At all times relevant hereto, Respondent maintained Insurance Producer license number 0935320, which expired on March 31, 2015.

12. From on or about August, 2010, to on or about July 16, 2012, Respondent wrongfully misappropriated approximately three hundred eighteen thousand five hundred eighty-seven dollars ($318, 587) from a client trust fund account managed by Respondent.

13. At all times relevant, this client trust fund account was managed by Respondent on behalf of Ms. Wilma Vandermeer ("Ms. Vandermeer") and Mr. and Mrs. Michael and Angela Sorensen ("Sorensens").

14. Respondent had a fiduciary obligation to properly manage all monies in the client trust fund account.

15. On or about August 20, 2010, Respondent misappropriated approximately sixty-five thousand dollars ($65,000) of Ms. Vandermeer's money from the client trust fund account.

16. On or about September 30, 2010, Respondent misappropriated approximately sixty-two thousand four hundred dollars ($62,400) of Ms. Vandermeer's money from the client trust fund account.

17. On or about September 30, 2010, Respondent misappropriated approximately sixty-two thousand five hundred dollars ($62,500) of the Sorensens' money out of the client trust fund account.

18. On or about April 14, 2011, Respondent misappropriated approximately seventy-two thousand dollars ($72,000) of Ms. Vandermeer's money out of the client trust fund account.

19. On or about July 16, 2012, Respondent misappropriated approximately fifty-six thousand six hundred eighty-seven dollars ($56,687) out of the client trust fund account to pay off the Sorensens.

20. Despite Respondent's fiduciary obligation, Respondent fraudulently withdrew the above-mentioned monies from the client trust fund account and used these monies for her own personal use and enjoyment.

21. Specifically, Respondent used the trust fund monies to purchase a four hundred ninety-nine thousand five hundred dollar ($499,500) condominium at the Caribe Resort in Orange Beach, Alabama, and a seven hundred twenty-five thousand dollar ($725,000) waterfront home in Orange Beach.

22. On or about September 26, 2013, Respondent pled guilty to fraudulently converting twenty-thousand dollars ($20,000) of client funds out of her attorney trust account for her own personal use in violation of Title 18, United States Code, Section 2314.

23. On or about April 29, 2014, Respondent was convicted of a felony, Fraudulent Transfer of Funds in Interstate Commerce, Title 18, United States Code, Section 2314, and was sentenced to twenty (20) months in prison.

CONCLUSIONS OF LAW

24. At all times relevant hereto, Tenn. Code Ann. § 56-6-112(a) (2011) has provided that the Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license issued under Title 56, Chapter 6, Part 1, or issue a civil penalty for the following reasons:

> . . .
>
> (6) Having been convicted of a felony [and]
>
> . . .
>
> (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this state or elsewhere;
>
> . . .

25. For each violation occurring prior to July 1, 2011, Tenn. Code Ann. § 56-2-305 (2008) states in pertinent part:

> (a) If . . . the commissioner finds that any insurer, person, or entity required to be licensed, permitted or authorized by the division of insurance 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), unless the insurer, person or entity knowingly violates a statute, rule or order, in which case the penalty shall not be more than twenty-five thousand dollars ($25,000) for each violation, not to exceed an

aggregate penalty of two hundred fifty thousand dollars ($250,000). This subsection (a)(2) shall not apply where a statute or rule specifically provides for other civil penalties for the violation. For purposes of this subsection (a)(2), each day of continued violation shall constitute a separate violation; and

(3) The suspension or revocation of the insurer's, person's, or entity's license.

(b) In determining the amount of penalty to assess under this section, or in determining whether the violation was a knowing violation for the purpose of subdivision (a)(2), the commissioner shall consider any evidence relative to the following criteria:

(1) Whether the insurer, person, or entity could reasonably have interpreted its 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) Whether the amount imposed would put the violator in a hazardous financial condition; [1]

(4) The circumstances leading to the violation;

(5) The severity of the violation and the risk of harm to the public;

(6) The economic benefits gained by the violator as a result of noncompliance;

(7) The interest of the public; and

(8) The insurer's, person's, or entity's efforts to cure the violation.

26. For all violations occurring on or after July 1, 2011, Tenn. Code Ann. § 56-6-112 (2011), states in pertinent part:

[1] "Hazardous financial condition" is an insurance industry term which refers to the financial condition of an insurance company, and the term is inapplicable to an individual insurance producer's economic affairs. (*see generally,* Tenn. Comp. R. & Regs. 0780-1-78-.03).

(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.

(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 subsection (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.

27. Respondent:

(1) Has been convicted of a felony; and

(2) Used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this state or elsewhere.

28. As enumerated in the Findings of Fact above and the Conclusions of Law contained herein, Respondent violated Tenn. Code Ann. § 56-6-112(a)(6) and (a)(8).

29. The Findings of Fact contained herein constitute grounds for a Consent Order revoking Respondent's Insurance Producer license in accordance with Tenn. Code Ann. § 56-6-112(g)(3). Such facts also provide grounds for an order imposing civil penalties against Respondent in accordance with Tenn. Code Ann. §§ 56-2-305 (2008) and 56-6-112 (2011).

ORDER

NOW, THEREFORE, based on the foregoing and Respondent's waiver 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 Respondent admits to the Findings of Fact and Conclusions of Law contained herein, has agreed to the entry of this Consent Order, and that this Consent Order is appropriate, in the best interest of the public, and necessary for the protection of the public.

IT IS ORDERED, pursuant to Tenn. Code Ann. §§ 56-2-305 (2008) and 56-6-112 (2011) that:

1. The Insurance Producer license, numbered 0935320, issued to Respondent, Sharon Kaye Anderson, is hereby **REVOKED**, beginning immediately upon final execution of this agreed Consent Order; and

2. Respondent shall not, while without a license, conduct further business for which an insurance license is required under the Law.

3. Respondent shall pay the Division a monetary civil penalty in the total sum of five thousand dollars ($5,000). Such penalty is to be paid according to the following schedule:

June 1, 2015,	$833.33;
July 1, 2015,	$833.33;
August 1, 2015,	$833.33;
September 1, 2015,	$833.33;
October 1, 2015	$833.33; and
November 1, 2015	$833.35.

4. Any failure to timely make a payment under the terms of this agreed Consent Order may result in additional disciplinary action being taken against Respondent including, but not necessarily limited to, the assessment of additional civil monetary penalties.

5. Failure to timely make any payment shall render all remaining payments under this Consent Order immediately due and collectible. Respondent may make any additional payments before the above mentioned due dates. If this additional payment is received by the Tennessee Department of Commerce and Insurance and is in excess of the above mentioned amount(s) and scheduled payment date(s), such payment shall be considered payment for any subsequent scheduled payment.

6. A payment shall be considered timely made if it is **received** by the Tennessee Department of Commerce and Insurance within seven (7) calendar days of the date such payment is due. All payments shall include a copy of the first page of this Order and shall be made payable to "State of Tennessee." All payments shall be mailed to the following address:

Tennessee Department of Commerce and Insurance
Legal Division
Davy Crockett Tower
500 James Robertson Parkway, 8th Floor
Nashville, TN 37243

7. **IT IS FURTHERED ORDERED** that all persons in any way assisting, aiding, or helping Sharon Kaye Anderson 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 and discharge of administrative remedies available to the Commissioner under §§ 56-2-305 (2008) and 56-6-112 against Respondent for violations of the Law arising out of the Findings of Fact set forth in Paragraphs 11 through 23 above. However, this Consent Order shall in no way preclude a third party or other authority from pursuing civil remedies or criminal action against Respondent which may otherwise be available.

This Consent Order is in the best interest of both the public and the parties and represents a compromise and settlement of the controversy between the parties. By her signature affixed below, Respondent, Sharon Kaye Anderson, states that she has: (1) freely agreed to the entry of this Consent Order; (2) had the opportunity to effectively consult with legal counsel in this matter; (3) reviewed the Findings of Fact and Conclusions of Law contained herein; and (4) waived her right to a hearing on the matters underlying this Consent Order. 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.

By signing this Consent Order, the parties affirm their agreement to be bound by the terms of this Consent Order and confirm that no promises or offers relating to the circumstances

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

IT IS SO ORDERED.

ENTERED this the 20th day of May, 2015.

Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

POA Ronnie Davis

Sharon Kaye AndersonChlora Lindley-Myers
3500 McFadden Drive
Oakland, Tennessee 38060

Chlora Lindley-Myers
Deputy Commissioner
Department of Commerce and Insurance
Davy Crockett Tower
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DURABLE GENERAL POWER OF ATTORNEY

KNOWN ALL MEN BY THESE PRESENTS, that I, SHARON K. ANDERSON of FAYETTE County, Tennessee, do hereby appoint and constitute my husband or my father, RONNIE DOWNS AND WILLIAM T. ANDERSON, as my co attorneys-in-fact for me and in my name and on my behalf, taking two of them to make any such decisions or sign on my behalf:

To receive, endorse and deposit any and all checks or other payments received from any source; to ask, demand, sue for, collect, recover and receive all sums of money, debts, dues, accounts, interest, dividends, annuities, merchandise and demands whatsoever, as are now, or shall hereafter become due, owing, payable or belonging to me, and have, use and take all lawful ways and means in my name or otherwise for the recovery thereof, and to compromise and agree for the same or otherwise discharge the same for me and in my name upon such terms and conditions as my attorney-in-fact shall think fit; to receive, accept and acknowledge on my behalf any and all funds and other property of every nature to which I may be entitled as a beneficiary, legatee or heir-at-law with respect to the estate of any decedent; to bargain, contract, agree for, buy, sell, mortgage, encumber, hypothecate and in any and every way and means deal in and with real property, goods, services, merchandise, commodities, bonds, stocks, securities, choses in action and other property in possession or in action and to release mortgages or other encumbrances on lands or chattels all upon such terms and conditions as my attorney-in-fact shall think fit; to bargain, lease, contract, agree for, purchase, sell convey, receive, mortgage, take and release lands and all interest therein and to execute and deliver all deeds, deeds of trust and other assurances of title upon such terms and conditions and under such covenants as my attorney-in-fact shall think fit; to transact all my banking business at any bank or banks, to make and withdraw deposits, enter lock boxes, open and close accounts, draw and endorse checks, make and give guaranties of payment or performance, draw, make and endorse promissory notes, drafts, bills of exchange and any other negotiable instruments; to transact all insurance business on my behalf, to apply for or continue policies, collect profits, file claims, make demands, enter into compromise and settlement agreements, file suits or actions and take any other action necessary or proper in this regard; to transact, conduct and operate any business on my behalf, to vote any shares of stock owned by me in any corporation or in any mutual fund, to execute proxies and waivers, to receive and receipt for any benefits accruing to me from the ownership of any investment or business interest, and generally do anything and everything necessary and proper for the furtherance, promotion and protection of any interest in any business or any investment owned by me; to execute tax and other returns, apply for licenses, keep records and accounts, make reports, give statements, receive and give out information pertaining to me or to any business interest I may own; and for me and in my name and as my act and deed to sign, seal, execute, deliver and acknowledge such instruments in writing of whatever kind or character as may be proper in the premises; to make gifts of all or any part of my property, real, personal or mixed, to whomever my attorney-in-fact shall think fit. Without in any way limiting the powers set out above, my attorney-in-fact shall also have the authority to exercise the powers set out in Tenn. Code Ann. ' 34-6-109, as amended.

Giving and granting unto my said attorney, full power and authority to do, execute and perform all and every other act and thing whatsoever, without any limitation whatever and without being confined to the specific acts hereinabove set out, requisite or necessary to be done in and about the premises as fully and to all intents and purposes as I might or could do and I hereby ratify and confirm all that my said attorney, shall lawfully do or cause to be done by virtue of these presents, and for me and in my name and on my behalf. This power of attorney shall not be affected by any subsequent disability or incapacity of mine if such should occur. It is my express intent that the authority herein conferred upon my said attorney shall be exercisable in all events notwithstanding my subsequent disability or incapacity.

IN WITNESS WHEREOF, I have executed this instrument on this the 2nd day of MAY, 2014.

SHARON K. ANDERSON

STATE OF TENNESSEE
COUNTY OF SHELBY

On this 2nd day of MAY, 2014, before me, a Notary public in and for said State and County, duly commissioned and qualified, personally appeared SHARON K. ANDERSON, to me known to be the person described in the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed.

WITNESS my hand and Notarial Seal at office the day and year above written.

Notary Public

My Commission Expires:
7-16-17

CHRISTINA PICKEL
STATE OF TENNESSEE NOTARY PUBLIC
COUNTY OF SHELBY
MY COMM. EXP. JULY 16, 2017