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

IN THE MATTER OF:	)	
	)	**TID No.: 14-163**
WILLIAM C. BREEDLOVE III	)	

CONSENT ORDER

The Tennessee Insurance Division of the Department of Commerce and Insurance ("Division") and William C. Breedlove III ("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

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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 his 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, 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 1034 Margaret Drive, Hendersonville, TN 37075, 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 0895111, which expires on January 31, 2015.

12. On or about October, 2009, Respondent negotiated, procured, and renewed a Commercial Automobile Policy for Jim Arneson ("Arneson"), a Washington State resident, through New Hampshire Insurance Company.

13. Even though the policy was set up as a direct pay to Direct Bill Services, Respondent advised Arneson to personally make the premium payments and Arneson agreed.

14. On or about February, 2010, Arneson began to receive invoices and notices from Direct Billing Services indicating the premium payments were being paid late or the policy was in danger of being cancelled.

15. Respondent told Arneson to disregard the invoices as the payments had been made.

16. Respondent contacted Arneson on or about May 26, 2010, informing Arneson that he might receive a cancellation notice, but to disregard the notice.

17. On or about June 25, 2010, July 10, 2010, and August 5, 2010, Respondent collected premium payments on each date of approximately one thousand five hundred eighty-four dollars ($1,584.00) from Arneson, totaling approximately four thousand seven hundred fifty-two dollars ($4,752.00).

18. Respondent failed to forward these above-mentioned payments of approximately one thousand five hundred eighty-four dollars ($1,584.00) to Arneson's insurer.

19. On or about July 20, 2010, Arneson was notified that his policy would be cancelled by Direct Bill Services on or about August 24, 2010, due to non-payment of premiums.

20. Arneson's policy was cancelled on or about August 24, 2010, due to non-payment of premiums.

21. Upon information and belief, Respondent knew that Arneson's policy was cancelled on or about August 24, 2010, due to non-payment of premiums.

22. Respondent fraudulently led Arneson to believe that he renewed Arneson's Commercial Automobile Policy for 2010 to 2011 with State National Insurance Company ("State National").

23. Respondent never renewed Arneson's Commercial Automobile Policy for 2010 to 2011 with State National.

24. Instead, on or about October, 2010, Respondent falsified a certificate of liability insurance for Arneson's Commercial Automobile Policy for 2010 to 2011 with State National.

25. Respondent wrongfully collected the following approximate premium payments from Arneson on the following approximate dates:

a. $3,006.25, December 2, 2010;

b. $1,564, January 13, 2011;

c. $1,564, March 9, 2011;

d. $1,564, April 19, 2011;

e. $1,564, May 11, 2011;

f. $1,564, June 7, 2011;

g. $1,564, July 12, 2011;

h. $1,564, August 4, 2011; and

i. $1,564, September 2, 2011;

for the fraudulent nonexistent State National policy.

CONCLUSIONS OF LAW

26. 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:

> . . .
>
> (2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state's commissioner;
>
> . . .
>
> (4) Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
>
> . . .
>
> (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;
>
> . . .

27. For all violations occurring on or after July 1, 2011, Tenn. Code Ann. § 56-6-112

(2011), states in pertinent part:

> (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.

28. Respondent:

(1) Violated the laws, rules, and/or regulations of the Commissioner or another state's commissioner;

(2) Improperly withheld, misappropriated or converted moneys received in the course of doing insurance business; and

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

29. As enumerated in the Findings of Fact above and the Conclusions of Law contained herein, Respondent violated Tenn. Code Ann. § 56-6-112(a)(2), (a)(4) and (a)(8).

30. 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 an amount not more than one thousand dollars ($1,000) for each separate violation committed after July 1, 2011, in accordance with Tenn. Code Ann. § 56-6-112(g).

ORDER

NOW, THEREFORE, based on the foregoing and Respondent's waiver of his 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. § 56-6-112 (2011) that:

1. The Insurance Producer license, numbered 0895111, issued to Respondent, William C. Breedlove III, 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 one thousand dollars ($1,000). Such penalty is to be paid according to the following schedule:

February 1, 2015,	$250.00;
March 1, 2015,	$250.00;
April 1, 2015,	$250.00; and
May 1, 2015,	$250.00.

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 William C. Breedlove III 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 Tenn. Code Ann. § 56-6-112 against Respondent for violations of the Law arising out of the Findings of Fact set forth in Paragraphs 11 through 25 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 his signature affixed below, Respondent, William C. Breedlove III, states that he 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 his 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 27th day of February, 2015.

Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

William C. Breedlove III
1034 Margaret Drive
Hendersonville, TN 37075

Chlora Lindley-Myers
Deputy Commissioner
Department of Commerce and Insurance
Davy Crockett Tower
500 James Robertson Parkway, 12th Floor
Nashville, Tennessee 37243

James R. Witham (BPR# 30468)
Assistant General Counsel
Department of Commerce and Insurance
Davy Crockett Tower
500 James Robertson Parkway, 8th Floor
Nashville, TN 37243
Phone: (615) 253-7848
Fax: (615) 741-4000
james.witham@tn.gov