

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

**TENNESSEE INSURANCE DIVISION,**  
**Petitioner,**

vs.

**MELISSA CHRISTINA BINGHAM,**  
**Respondent.**

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**No: 10-058**

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**CONSENT ORDER**

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The Insurance Division of the Tennessee Department of Commerce and Insurance ("Insurance Division"), by and through counsel, and Melissa Christina Bingham ("Respondent") hereby stipulate and agree, subject to the approval of the Commissioner 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. The Commissioner has determined that the resolution set forth in this Consent Order is fair and reasonable and in the best public interest.
3. This Consent Order is executed by 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.

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4. Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against Respondent for acts and/or omissions not specifically addressed in this Consent Order or for acts and/or omissions that do not arise from the facts or transactions herein addressed. Respondent also understands that this Consent Order may be used by the Commissioner or any Commissioner, Department or Board to revoke or refuse to issue any license Respondent currently holds or for which Respondent applies in the future.

5. 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 this Consent Order, the stipulation and imposition of discipline contained herein and the consideration and entry of said Consent Order by the Commissioner.

#### **JURISDICTION**

6. The Commissioner has jurisdiction pursuant to the Tennessee Insurance Law (the "Law"), TENN. CODE ANN. § 56-6-101 *et seq.*, and the Law places the responsibility for the administration of the Law on the Commissioner.

#### **PARTIES**

7. The Insurance 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 a citizen and resident of Tennessee, residing at 835 Deer Path Lane, Gatlinburg, Tennessee 37738. Respondent's non-resident insurance producer license, numbered 1028300, was issued in 2009.

## FINDINGS OF FACT

9. On approximately October 14, 2009, while a license insurance producer in Virginia, Respondent obtained an appointment with American Family Life Assurance Company ("Aflac").

10. From approximately November 2009 through January 2010, Respondent ostensibly sold approximately one hundred fifty-two (152) policies to forty-one (41) individuals. The method of premium payment established for these policies was via electronic funds transfers through one (1) of three (3) depository accounts. Based on the "sale" of these policies, Respondent received thirty-one thousand nine hundred seventy-four dollars (\$31,974) in commissions.

11. Subsequently, each of the electronic funds transfer requests (premium payments) was declined by the respective depository banks. Aflac then initiated an investigation and determined that the policies had been written for individuals without authorization or, in some instances, with authorization but not for the number of policies that were subsequently issued. Eventually, all one hundred fifty-two (152) policies were canceled.

12. On approximately April 26, 2010, Aflac terminated Bingham's appointment and notified the Insurance Division. As a result of Bingham's actions, Aflac suffered a loss of thirty-one thousand nine hundred seventy-four dollars (\$31,974), representing commissions paid to Respondent.

## CONCLUSIONS OF LAW

13. TENN. CODE ANN. § 56-6-112(a)(8) (2008) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license and/or may levy a civil penalty for anyone who uses fraudulent, coercive or dishonest practices, or demonstrates incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

14. Based on the Findings of Facts cited above, the Commissioner finds that Respondent violated the law by using fraudulent, coercive or dishonest practices or by demonstrating

incompetence, untrustworthiness or financial irresponsibility in the conduct of business.

15. Such facts would constitute grounds for an Order revoking Respondent's insurance producer license and assessing a civil penalty against Respondent based on violations of TENN. CODE ANN. § 56-6-112(a)(8) (2008). Respondent admits to the Findings of Fact and concedes that the Conclusions of Law contained herein are fair and reasonable. Respondent enters into this Consent Order for the sole purpose of avoiding further administrative action with respect to this cause.

### ORDER

**NOW, THEREFORE**, based on the foregoing and the waiver of Respondent 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 the Respondent has agreed to the entry of this Consent Order and that this Consent Order is appropriate and in the public interest.

**IT IS ORDERED**, pursuant to TENN. CODE ANN. § 56-6-112(a) (2008) that:

The non-resident insurance producer license, numbered 1028300, issued to Melissa Christina Bingham is hereby **REVOKED**.

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 signature affixed below, Melissa Christina Bingham, affirmatively states that she has freely agreed to the entry of this Consent Order, that she has been advised that she may consult with legal counsel in this matter, that she waives her right to a hearing on the matters underlying this Consent Order and that no threats or promises of any kind have been made by the Commissioner, the Insurance Division or any agent 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 settlement set forth in

this Consent Order, are binding upon them.

**SO ORDERED.**

**ENTERED** this the 8<sup>th</sup> day of November, 2010.

Leslie A. Newman  
Leslie A. Newman, Commissioner  
Department of Commerce and Insurance

**APPROVED FOR ENTRY:**

[Signature]  
Larry C. Knight, Jr.  
Assistant Commissioner for Insurance  
Department of Commerce and Insurance

Melissa C. Bingham  
Melissa Christina Bingham  
835 Deer Path Lane  
Gatlinburg, Tennessee 37738

[Signature]  
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