

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

TENNESSEE INSURANCE DIVISION,)
 Petitioner,)
)
vs.)
)
JUSTIN W. FRAZIER,)
 Respondent.)

No.: 08-004

CONSENT ORDER

The Tennessee Insurance Division (“Division”) and Justin W. Frazier (“Respondent”) agree to the entry of this Consent Order subject to the approval of the Commissioner of Commerce and Insurance (“Commissioner”).

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.

4. Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against him for acts or omissions not specifically addressed in this Consent Order or for facts or omissions that do not arise from the facts or transactions herein addressed. Furthermore, Respondent fully understands that the facts outlined in this order may be used by the Commissioner in consideration of any future application for licensure filed by Respondent.

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

FINDINGS OF FACT

1. The Commissioner has jurisdiction pursuant to the Tennessee Insurance Law ("Law"), TENN. CODE ANN., TITLE 56; specifically TENN. CODE ANN. §§ 56-1-202 and 56-6-112; that Law places the responsibility for administration of its provisions on the Commissioner. 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.

2. Respondent is a citizen of Georgia and a resident of Atlanta, residing at 2415 Camellia Lane Apt. 1104, Atlanta, GA 30324. Respondent has been licensed by the Division to sell insurance in the State of Tennessee as a non-resident insurance producer, license numbered 911294, which he obtained May 27, 2004.

3. On or about June 19, 2007, while working for AAA East Tennessee (“AAA”), Respondent sold a Blue Cross Blue Shield of Tennessee (“BCBS”) policy for Melinda, Mary and Wilbur Latham of Chattanooga, Tennessee.

4. Instead of submitting the original policy sold to the Latham’s, Respondent filled out and submitted four regular and one guaranteed issue BCBS policies in the name of the Latham’s without their knowledge. Respondent forged the signatures of the Latham’s on all five (5) policies without their knowledge or their permission.

5. In addition, Respondent omitted important medical information on the applications that would have affected acceptance of the applications by BCBS.

6. Respondent also forged Melinda Latham’s signature on a credit card payment form faxed to BCBS on July 2, 2007.

7. Additionally, Respondent misrepresented to the Latham’s that they would obtain a maximum lifetime benefit of Six Million Dollars (\$6,000,000).

8. Respondent was later terminated by AAA.

CONCLUSIONS OF LAW

1. TENN. CODE ANN. § 56-6-112(a) provides, in pertinent part, that “[t]he 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 subsection (e) or take any combination of such actions, for any one or more of the following causes:

(2) Violating any law, rule, regulation, subpoena or order of the commissioner or of another state’s commissioner;
...

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
...

(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;

...

(10) Forging another's name to an application for insurance or to any document related to an insurance transaction."

2. TENN. CODE ANN. § 56-6-112(e) provides that:

With respect to any person licensed or required to be licensed under this part, and in addition to or in lieu of any applicable denial, suspension or revocation of a license, the commissioner may assess a civil penalty against such person in an amount not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each separate violation of a statute, rule or order pertaining to the sale, solicitation or negotiation or insurance in this state. Each day of continued violation constitutes a separate violation.

3. TENN. CODE ANN. § 56-53-103 provides, in pertinent part, that any person who commits, or participates in any of the following acts with an intent to induce reliance, has committed an unlawful insurance act:

(1) Presents, causes to be presented, or prepares with knowledge or belief that it will be presented, by or on behalf of an insured, claimant or applicant to an insurer, insurance professional or a premium finance company in connection with an insurance transaction or premium finance transaction, any information which the person knows to contain false representations, or represents the falsity of which the person has recklessly disregarded, as to any material fact, or which withholds or conceals a material fact, concerning any of the following:

- (A) The application for, rating of, or renewal of, any insurance policy;
- (B) A claim for payment or benefit pursuant to any insurance policy;
- (C) Payments made in accordance with the terms of any insurance policy; or
- (D) The application for the financing of any insurance premium.

4. Based upon the Findings of Fact cited above and the Conclusions of Law contained herein, the Commissioner considers the actions of Respondent to be in violation of TENN. CODE ANN. § 56-6-112(a) (2), (5), (7), (8) & (10), and § 56-53-103. Respondent is therefore subject to

sanctions set forth in TENN. CODE ANN. § 56-6-112(a).

5. Respondent hereby admits to all the Findings of Fact stated above in paragraphs 1-8, and further admits that such findings subject him to sanctions pursuant to TENN. CODE ANN. § 56-6-112(a). Respondent hereby acknowledges the Commissioner's authority to administer said statutes and concedes that the Commissioner's interpretation of the statutes, as set forth in the Conclusions of Law, is reasonable and enforceable. Therefore, Respondent, in order to avoid any further expenses or costs associated with litigating this matter, hereby desires to enter into the Agreed Order.

ORDER

NOW, THEREFORE, on the basis of the foregoing, and the waiver by Respondent of his rights to a hearing and appeal under Tennessee Insurance Law and Tennessee's Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101, *et seq.*, ("Act") and the admission by Respondent of the jurisdiction of the Commissioner, the Commissioner finds that Respondent has agreed to the entry of this Order and that this Order is appropriate, in the public interest and necessary for the protection of investors.

IT IS ORDERED, pursuant to TENN. CODE ANN. § 56-6-112 of the TENNESSEE INSURANCE LAW, that the insurance producer license held by Respondent, Justin W. Frazier, license numbered 911294, is hereby **REVOKED**. All administrative penalties pursuant to TENN. CODE ANN. § 56-6-112, associated with the Findings of Fact stated above, are forgone.

IT IS FURTHER ORDERED that the Order represents the complete and final resolution and discharge of all administrative remedies under TENN. CODE ANN. § 56-6-112 by the Commissioner against Respondent for violations of the Act arising out of the Findings of Fact above. This Order, however, in no way affects other actions taken against Respondent by any other third party.

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, Respondent affirmatively states that he has freely agreed to the entry of the Consent Order, that he has been advised that he may consult legal counsel in this matter and has had the opportunity to consult with legal counsel should he have desired to do so, has reviewed the Findings of Fact and Conclusions of Law contained herein, waives his right to a hearing on the matters underlined in this Consent Order and the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made 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 the Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in the Consent Order, are binding upon them.

IT IS SO ORDERED.

ENTERED this the 29th day of July, 2008.

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

APPROVED FOR ENTRY:



Larry C. Knight, Jr.
Assistant Commissioner for Insurance
Department of Commerce and Insurance
Davy Crockett Tower, Fourth Floor
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Nashville, Tennessee 37243



Justin W. Frazier
Respondent



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