

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

TENNESSEE INSURANCE DIVISION)	
)	
v)	
)	APD No.: 12.01-122863J
ANTHONY L. HOLSOMBACK,)	TID No.: 13-083
Respondent,)	
)	

CONSENT ORDER

The Tennessee Insurance Division of the Department of Commerce and Insurance (“Division”) and Anthony L. Holsomback (“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 statues, 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.

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 a citizen and resident of the State of Tennessee whose address of record is: 744 Breezewood Way, Chattanooga, TN 37421.

FINDINGS OF FACT

9. 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/Surplus license number 735188 which expires on or about March 31, 2015.

10. On or about January 5, 2010, Regan Jefferson, Respondent's client, completed an application for insurance with Golden Rule Insurance Company ("Golden Rule") to obtain an insurance quote.

11. Respondent is responsible for the accuracy and completeness of Ms. Jefferson's insurance application.

12. Ms. Jefferson, a resident of Chattanooga, TN, did not provide any financial information in the above-mentioned insurance application.

13. Instead, Respondent used the financial information from his other client, Ms. Kristi Ayre.

14. On or about January 5, 2010, the financial account information and signature of Ms. Jefferson's sister-in-law, Ms. Kristi Ayre, was provided by Respondent in the insurance application.

15. The financial account information was used to pay insurance premiums to Golden Rule through an electronic transfer of funds ("ETF").

16. Respondent provided Ms. Ayre's account information and signature on Ms. Jefferson's insurance application to authorize the payment of premiums to Golden Rule.

17. Respondent did not have Ms. Ayre's authorization to enable funds to be transferred in the form of premium payments to Golden Rule.

18. Respondent knowingly and fraudulently forged Ms. Ayre's name on the Golden Rule insurance application.

19. On or about March 31, 2011 and on or about March 29, 2013, Respondent submitted license renewal applications to the Tennessee Department of Commerce and Insurance.

20. Respondent indicated in his license renewal applications that he had not been convicted of a crime.

21. On or about November 30, 1995, Respondent pled guilty to Driving Under the Influence within the State of Tennessee.

22. Respondent was sentenced to eleven (11) months and twenty-nine (29) days incarceration, suspended after serving two (2) days in jail, and a Three Hundred Fifty Dollar (\$350) fine.

23. On or about October 21, 1998, Respondent pled guilty to another charge of Driving Under the Influence within the State of Tennessee.

24. Respondent was sentenced to eleven (11) months and twenty-nine (29) days incarceration, suspended after serving two (2) days in jail, and a Three Hundred Fifty Dollar (\$350) fine.

25. On or about January 28, 2004, Respondent pled guilty to a third instance of Driving Under the Influence within the State of Tennessee.

26. Respondent was sentenced to eleven (11) months and twenty-nine (29) days incarceration, suspended after serving ten (10) days in jail, and a Six Hundred Dollar (\$600) fine.

27. On or about September 4, 2009, Respondent pled guilty in Alabama to Negotiating a Worthless Negotiable Instrument, a Class A Misdemeanor, pursuant to Ala. Code § 13A-9-13.1.

28. Respondent was sentenced to thirty (30) days in Baldwin County Jail, which was suspended upon the completion of twelve (12) months informal probation.

29. Lastly, on or about February 10, 2012, Respondent pled guilty in Florida to a Second Degree Felony; attempted trafficking in illegal drugs, pursuant to Fla. Stat. Ann. § 893.1351(c)1.

30. Respondent was sentenced to five (5) years on probation, Eight Hundred Dollars (\$800) in court costs and Five Hundred Dollars (\$500) in fines.

CONCLUSIONS OF LAW

31. At all times relevant hereto, Tenn. Code Ann. § 56-6-112(a) 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:

- (1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;
...
- (3) Obtaining or attempting to obtain a license through misrepresentation or fraud;
...
- (6) Having been convicted of a felony;
...
- (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; [and]

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

32. 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.

33. 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.

34. Respondent:

- (1) Provided incorrect, misleading, incomplete or materially untrue information in his license applications;
- (2) Obtained a license through misrepresentation or fraud;
- (3) Has been convicted of a felony;
- (4) Used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of doing business in this state or elsewhere; and
- (5) Forged another's name to an application for insurance.

35. As enumerated in the Findings of Fact above and the Conclusions of Law contained herein, Respondent violated Tenn. Code Ann. §§ 56-6-112(a)(1), (a)(3), (a)(6), (a)(8), and (a)(10).

36. The Findings of Fact contained herein constitute grounds for a Consent Order revoking Respondent's Insurance Producer/Surplus license in accordance with Tenn. Code Ann. §§ 56-6-112(g)(3) and 56-2-305(a)(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) and an amount not more than twenty-five thousand dollars (\$25,000) for each separate violation committed knowingly to all acts occurring prior to July 1, 2011 in accordance with Tenn. Code Ann. § 56-2-305.

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, for the purpose of settling this matter, admits the Findings of Fact and Conclusions of Law and 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 (2008), and (2011) that:

1. The Insurance Producer/Surplus license, numbered 735188, issued to Respondent, Anthony L. Holsomback, 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;

IT IS FURTHER ORDERED, pursuant to Tenn. Code Ann. § 56-6-112(g) (2011) that:

1. Respondent, Anthony L. Holsomback, shall pay the Division a **CIVIL PENALTY** in the total sum of five thousand dollars (\$5,000). Such penalty is to be paid according to the following schedule:

February 28, 2014 \$2,500.00

December 31, 2014 \$2,500.00

2. 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, revocation, suspension, or probation of the above mentioned insurance producer license and/or the assessment of additional civil penalties. 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 any 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 date(s).

3. A payment shall be considered timely made if it was **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 out to "State of Tennessee." All payments shall be mailed to the following address:

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

4. In addition, it is further **ORDERED** that all persons in any way assisting, aiding, or helping Anthony L. Holosomback 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.

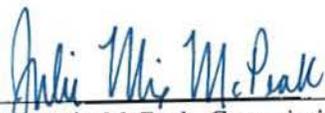
§§ 56-6-112 and 56-2-305 against Respondent for violations of the Law arising out of the Findings of Fact set forth in Paragraphs 9 through 30 above. However, this Consent Order shall in no way preclude a third party or other authority from pursuing civil remedies or criminal action against Respondent which may otherwise be available.

This Consent Order is in the public interest and in the best interest of the parties, represents a compromise and settlement of the controversy between the parties, and is for settlement purposes only. By signature affixed below, Respondent, Anthony Holsomback 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 10th day of December, 2013.



Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:



Anthony L. Holsomback
744 Brezewood Way
Chattanooga, TN 37421



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

Nancy S. Jones,
Deputy Commissioner and General Counsel

By: 

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