



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

TENNESSEE INSURANCE DIVISION,)
Petitioner,)
v.) APD No.: 12.01-139228J
ORVIL E. HENDRIX,) TID No.: 16-074
Respondent)
)

CONSENT ORDER

The Tennessee Insurance Division (“TID”) and Orvil E. Hendrix (“Respondent”) agree, by and through their respective counsel, and subject to the approval of the Commissioner of the Tennessee Department of Commerce and Insurance (“Commissioner”), to the entry of this Consent Order (“Order”) in accordance with the provisions of the Tennessee Insurance Law (the “Law”), as codified at TENN. CODE ANN. § 56-6-101, *et seq.*

GENERAL STIPULATIONS

1. It is expressly understood that this 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. This Order is executed by the Parties for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Order by the Commissioner shall not unfairly or illegally prejudice the Commissioner from further participation or resolution of these proceedings.

3. The Respondent fully understands that this Order will in no way preclude additional proceedings by the Commissioner against the Respondent for acts or omissions not specifically addressed in this Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. The Respondent fully understands that this Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for the violations of the Law addressed specifically in this Order, against the Respondent for violations of 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 Order by the Parties.

FINDINGS OF FACT

5. Respondent is a resident and citizen of Tennessee, with an address of record listed as 321 Hendrix Drive, Dowelltown, Tennessee 37059.

6. Respondent is a current holder of a valid Tennessee insurance producer's license number 0300965.

7. On or about May 28, 2010, Respondent procured an annuity application from a Tennessee consumer with an initial investment value represented to be fifty-four thousand dollars (\$54,000).

8. Respondent took the application in the name of American Equity Investment Life Insurance Company ("American Equity"), after such time that his appointment by American Equity had expired, and while he was not otherwise associated with American Equity.

9. On the May 28, 2010 annuity application Respondent affixed the signature of licensed insurance producer Phillip Hendrix, his son, as the producer, in an attempt to aid his son in

business. This signature was placed on the annuity application without the knowledge or approval of Phillip Hendrix.

10. On or about September 14, 2015, a complaint was received by American Equity from the Tennessee consumer alleging that the principal amount of the annuity had been represented to her by the Respondent to remain constant, that the principal amount of the annuity had diminished, that the Respondent, and not his son, had sold her the annuity, and that she had been misled as to the specific terms of the annuity by the Respondent.

11. On or about October 8, 2015, the Respondent wrote to Maria Connet, Service Administrator in the Resolution Department of American Equity to provide information about the involvement of Phillip Hendrix in the sale of the annuity to the Tennessee consumer. In his letter, the Respondent admitted that he wrote and explained the annuity policy, and "put the policy in Phillip (sic) name to give him commissions."

12. On or about November 20, 2015 American Equity terminated the appointment of Phillip Hendrix, for cause.

13. In the course of the investigation, Division investigators were provided by American Equity a copy of the October 8, 2015 letter from the Respondent to American Equity and determined that the admissions of unlawful conduct by the Respondent should be addressed in an administrative disciplinary proceeding.

14. Respondent, through Counsel, has stated that it is in his best interests to agree to the surrender of his insurance producer license and the payment of a civil penalty in the amount of five thousand dollars (\$5,000), with the surrender of his insurance producer license and the payment in full of the five thousand dollar (\$5,000) civil penalty to be accomplished no later than November 20, 2017.

15. Respondent expressly agrees to waive all further procedural steps and all rights to seek

judicial review of, or to otherwise challenge or contest the validity of this Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Order by the Commissioner.

16. Respondent has expressly agreed to permanently waive any right to a hearing and appeal under TENN. CODE ANN. §§ 4-5-101 *et seq.*, with respect to this Order.

CONCLUSIONS OF LAW

17. TENN. CODE ANN. § 56-6-112 states that:

(a) The 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 this section or take any combination of those actions, for any one (1) or more of the following causes:

...

(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;

(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 subdivision (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.

ORDER

NOW, THEREFORE, on the basis of the foregoing, and the waiver by the Respondent of the right to a hearing and appeal under the Tennessee Insurance Law and the Tennessee Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101 *et seq.*, and the admission by the Respondent of 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 herein, has agreed to the entry of this Order, and that the following Order is appropriate, and is in the public interest.

IT IS ORDERED, pursuant to TENN. CODE ANN. § 56-6-112, that:

1. The Tennessee resident insurance producer license of Orvil E. Hendrix , number 0300965 shall be **surrendered to the Tennessee Insurance Division on or before November 20, 2017**;
2. Orvil E. Hendrix shall **CEASE AND DESIST** from any future conduct in violation of any Rule, Regulation, or Statute under the Law;
3. Any persons associated with Orvil E. Hendrix shall **CEASE AND DESIST** from any future conduct in violation of any Rule, Regulation, or Statute under the Law;
4. Orvil E. Hendrix shall **PAY A CIVIL PENALTY** to the State of Tennessee in the amount of five thousand dollars (\$5,000) no later than November 20, 2017. Payment shall be mailed to:

**State of Tennessee
Department of Commerce and Insurance
Legal Division, 8th Floor
Attn: Charles S. Herrell, Attorney
Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243**

5. If payment is not made according to the terms described above, the TID may vacate this Order, in its sole discretion, upon ten (10) days' notice to Respondent, and without opportunity for an administrative hearing, proceed with an administrative action.
6. This 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, the Respondent and his Counsel affirmatively state that he has freely agreed to the entry of this Order, that he waives the right to a hearing on the matters

underlying this Order and to a review of the Findings of Fact and Conclusions of Law contained herein, and that no threats or promises of any kind have been made to her by the Commissioner, the TID, or any agent or representative thereof. The parties, by signing this Order, affirmatively state their agreement to be bound by the terms of this Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement as set forth in this Order, are binding upon them.

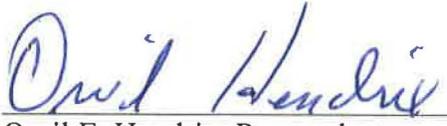
ENTERED this 28 day of March, 2018.


Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:


Charles S. Herrell (BPR # 18035)
Assistant General Counsel
Department of Commerce and Insurance
500 James Robertson Parkway, 8th Floor
Nashville, Tennessee 37243
(615) 253-1378/Fax (615) 741-4000


Gayla Hendrix (BPR# 19245)
Attorney for Respondent
Hendrix Law
301 N. Public Square
Smithville, Tennessee 37166
(615) 215-8450


Orvil E. Hendrix, Respondent