STATE OF TENNESSEE
BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE

TENNESSEE INSURANCE DIVISION, **Petitioner,**	)	
	)	**Docket No. 12.04-145613J**
vs.	)	**TID No. 17-023**
	)	
KEVIN ROBERT STOUT, **Respondent.**	)	

AGREED FINAL ORDER

The Insurance Division ("Division") of the State of Tennessee Department of Commerce and Insurance ("Department"), by and through undersigned counsel, and Kevin Robert Stout ("Respondent") hereby stipulate and agree, 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 Agreed Final 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 Agreed Final Order is executed by Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Agreed Final Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Agreed Final 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 Agreed Final Order will in no way preclude additional proceedings by the Commissioner for acts and/or omissions not specifically addressed in this Agreed Final Order, or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. Other than this proceeding brought by the Commissioner for violations of Title 56 of Tennessee Code Annotated addressed specifically in this Agreed Final Order, Respondent fully understands that this Agreed Final Order will in no way preclude proceedings by state or local officers, agencies, or civil or criminal law enforcement authorities against 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 arise as a result of the execution of this Agreed Final Order by Respondent.

5. Respondent expressly waives all further procedural steps, and expressly waives rights to seek judicial review of or to otherwise challenge or contest the validity of this Agreed Final Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Agreed Final Order by the Commissioner.

6. Respondent fully understands and agrees that the Division is not required to file this Agreed Final Order with the Administrative Procedures Division of the Tennessee Secretary of State's Office if Respondent does not deliver to the Division his first installment payment toward the civil penalty assessment in a timely manner. Should Respondent not make this first payment in a timely manner, this Agreed Final Order will not become effective and the Division will reschedule the hearing in this case on a contested docket before an Administrative Judge assigned to the Secretary of State.

AUTHORITY AND JURISDICTION

7. 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

8. 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.

9. Respondent is a Tennessee resident, whose address of record with the Division is 309 Sterling Park Terrace, Franklin, TN 37069. Respondent obtained his Tennessee Resident Insurance Producer License, number 0840716, on or about January 17, 2001, and said license is scheduled to expire on January 31, 2018.

FINDINGS OF FACT

10. On February 12, 2010, the Indiana Department of Insurance entered an Agreed Final Order against Respondent for failing to file a semi-annual tax report in violation of Indiana law. At that time and at least since January 2009, Respondent was licensed and qualified as a surplus lines producer under Indiana law.

11. In his capacity as a surplus lines producer in Indiana, Respondent was required to file a semi-annual tax report for January through June 2009, on or before August 1, 2009. Respondent failed to do so by the August 1, 2009, deadline.

12. In this February 2010 Agreed Final Order signed by Respondent, the Indiana Department of Insurance assessed an administrative fine of one thousand dollars ($1,000) against him, and placed his Indiana license on probation for a period of one (1) year. Respondent was also required to file the delinquent semi-annual tax report for January through June 2009, within

ten (10) days after the Indiana Department of Insurance entered the Agreed Final Order. Respondent's former employer at the time, the Van Meter Insurance Group ("Van Meter"), paid this civil penalty to the State of Indiana and filed any and all required tax reports in Indiana during the period of Respondent's probation.

13. Respondent did not report to the Commissioner this administrative action taken against him in Indiana within thirty (30) days after the final disposition of that matter on February 12, 2010.

14. On or about February 1, 2012, January 29, 2014, and January 19, 2016, the Respondent answered no ("N") to the following question on his Tennessee Insurance License Renewal Applications submitted online to the Division on those dates:

> "Have you ever been named or involved as a party in an administrative proceeding including a FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration, which has not been previously reported to this insurance department?"

15. Respondent's answers to this question on the online insurance renewal applications he submitted to the Division on or about February 1, 2012, January 29, 2014, and January 19, 2016, were materially untrue and misleading because he had never reported the Indiana Agreed Final Order entered against him on February 12, 2010, to this Department.

16. The Division did not learn about this February 2010 Agreed Final Order entered against Respondent until Van Meter disclosed same to the Division on or about October 27, 2016. This occurred after one of the insurance companies Respondent has an appointment with flagged the Indiana administrative action as undisclosed.

17. After this complaint was opened, Respondent has admitted to the Division's investigators that the above answers on the renewal applications were incorrect, but explains that he erroneously interpreted the obligations under the 2010 Indiana Agreed Final Order to have

been the responsibility of Van Meter to satisfy. As support for his misinterpretation, he indicates that he was selected by Van Meter (out of six (6) agents in the office at the time) to be the surplus lines agent of record for the State of Indiana because he was the only one who had the necessary licensure. Further, he contends that there were no taxes due to the State of Indiana for the January - June 2009 period, and that he erroneously viewed his prior employer as the real party in interest in that state.

18. Moreover, it does not appear that Respondent intended to mislead this Department, and he appears to have believed that administrative staff at Van Meter would have made any and all required reports of this Indiana administrative action to any other states in which he maintained insurance producer licenses.

19. On July 18, 2017, the Division, through counsel, filed a Notice of Hearing and Charges against the Respondent relating to his actions as set out above.

CONCLUSIONS OF LAW

20. Respondent's actions as set forth above in the foregoing Findings of Fact, constitute violations of Tenn. Code Ann. §§ 56-6-112(a)(1) & (2), and 56-6-119(a) (2011), which read as follows:

Tenn. Code Ann. § 56-6-112

(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:

(1) Providing incorrect, misleading, incomplete or materially untrue information in the license application;

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

....

Tenn. Code Ann. § 56-6-119

(a) A producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of any order entered or other relevant legal documents.

21. Respondent's violations of Tenn. Code Ann. §§ 56-6-112(a)(1) & (2), and 56-6-119(a) (2011), constitute grounds for the imposition of lawful discipline, including the assessment of civil penalties, as prescribed at Tenn. Code Ann. §§ 56-6-112(g)(1), (2) & (3), which read as follows:

(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.

22. Based upon the above Findings of Fact and Conclusions of Law, the Commissioner considers that the Respondent's actions warrant the imposition of lawful discipline, to include assessment of a civil penalty in accordance with Tenn. Code Ann. § 56-6-112(g)(1), (2), & (3).

23. In order to avoid further expenses or costs associated with additional administrative litigation of this matter or judicial review, Respondent hereby acknowledges the

Commissioner's authority to administer the statutes cited herein, concedes that the Commissioner's interpretation of the statutes cited in the Conclusions of Law are reasonable and enforceable, and agrees to the entry of this Agreed Final Order including each of the following sanctions ordered by the Commissioner.

ORDER

NOW, THEREFORE, on the basis of the foregoing, and Respondent's waiver of the right to a hearing and appeal under the Law and the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 to 4-5-404 (2011), and Respondent's admission 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, agrees to the entry of this Agreed Final Order pursuant to Tenn. Code Ann. § 4-5-314(a) and agrees that this Agreed Final Order is in the public interest and is consistent with the purposes fairly intended by the Law.

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

1. Respondent **is ASSESSED a CIVIL PENALTY** in the amount of one thousand dollars ($1,000.00).

2. All payments to the Department of the one thousand dollar ($1,000.00) civil penalty assessment shall be mailed to:

State of Tennessee
Department of Commerce and Insurance
Office of Legal Counsel
Attn: Jesse D. Joseph, Assistant General Counsel
500 James Robertson Parkway, 8th Floor
Nashville, TN 37243

3. Respondent's payment of the civil penalty to the Department shall be in two (2) installments over three (3) months as follows:

(a) Respondent shall deliver his first five hundred dollar ($500.00) payment to the Department toward the civil penalty assessment by **September 18, 2017**; and

(b) Respondent shall deliver his second five hundred dollar ($500.00) payment to the Department toward the civil penalty assessment by **November 20, 2017.**

4. Respondent is permitted to pay the civil penalty assessment sooner than required by the above schedule. A payment shall be considered timely made if it is **received** by the Department within seven (7) calendar days of the date such payment is due. All payments shall include a copy of the first page of this Agreed Final Order and shall be made payable to the "State of Tennessee."

5. The failure to make timely payments under the terms of this Agreed Final Order may result in additional disciplinary proceedings being brought against Respondent, which may result in additional discipline imposed against Respondent's Tennessee Insurance Producer License, and the assessment of additional civil monetary penalties.

6. Failure to timely make any payment shall render any remaining balance under this Agreed Final Order immediately due and collectible. If Respondent fails to pay the civil penalty according to the above schedule, the Department may file and enforce any remaining balance of this civil penalty as a judgment against Respondent in the Circuit or Chancery Court without further notice to Respondent or additional proceedings.

7. All persons in any way assisting, aiding, or helping Respondent in any of the aforementioned violations of Tenn. Code Ann. §§ 56-6-112 and 56-6-119 shall **CEASE AND DESIST** from all such activities in violation of the Law.

IT IS ORDERED that this Agreed Final Order represents the complete and final resolution of, and discharge with respect to all administrative and civil, claims, demands, actions, and causes of action by the Commissioner against Respondent for violations of Tenn. Code Ann. §§ 56-6-112(a)(1) & (2), and 56-6-119(a) alleged by the Division to have occurred with respect to the transactions involving the facts contained herein, with the exception of any future action which may become necessary to enforce and/or collect the one thousand dollar ($1,000.00) civil penalty.

This Agreed Final Order is in the public interest and in the best interests of the parties, 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 he has freely agreed to the entry of this Agreed Final Order, that he waives the right to a hearing on the matters underlying this Agreed Final 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 him by the Commissioner, the Division, or any agent or representative thereof. The parties, by signing this Agreed Final Order, affirmatively state their agreement to be bound by the terms of this Agreed Final Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of the settlement as set forth in this Agreed Final Order, are binding upon them.

ENTERED this 12 day of September, 2017.

Julie Mix McPeak
Julie Mix McPeak, Commissioner
TN Department of Commerce and Insurance

APPROVED FOR ENTRY:

Kevin R Stout
Kevin Robert Stout, Respondent
309 Sterling Park Terrace
Franklin, TN 37069

Michael Humphreys
Assistant Commissioner for Insurance
TN Department of Commerce and Insurance

Jesse D. Joseph, BPR# 10509
Assistant General Counsel
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(615) 253-4701
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Filed in the Office of the Secretary of State, Administrative Procedures Division, this 12 day of September, 2017.

J. Richard Collier

J. Richard Collier, Esq., Director,
Administrative Procedures Division