

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

TENNESSEE INSURANCE DIVISION,  
Petitioner,

vs.

DAVID C. THOMAS,  
Respondent.

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No: 10-045

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CONSENT ORDER

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WHEREAS the Insurance Division of the Tennessee Department of Commerce and Insurance ("Department"), by and through counsel, and David C. Thomas ("Respondent"), hereby stipulate and agree, subject to the approval of the Commissioner of Commerce and Insurance ("Commissioner"), as follows:

JURISDICTION

1. The Commissioner has jurisdiction pursuant to the Tennessee Insurance Law (the "Law"), Title 56 of the Tennessee Code, and the Law places the responsibility for the administration of the Law on the Commissioner.

PARTIES

2. 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.

3. Respondent is currently serving a sentence of incarceration in the custody of the Federal Bureau of Prisons at FCI Edgefield, P.O. Box 725, Edgefield, South Carolina 29824. Respondent non-resident insurance producer-license, numbered 801877, was issued in 1998.

## GENERAL STIPULATIONS

4. 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.

5. The Commissioner has determined that the resolution set forth in this Consent Order is fair and reasonable and in the best public interest.

6. 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.

7. 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 he applies in the future.

8. 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.

## FINDINGS OF FACT

9. Through his business, North American Financial Services, Respondent held himself out to the public and to various mortgage companies as an authorized representative of Lloyd's of

London ("Lloyd's"), an insurance company located in the United Kingdom, with authorization to write homeowners' insurance underwritten by Lloyd's. At no time relevant to the events outlined herein, was Respondent an authorized representative of Lloyd's or entitled to write homeowners' insurance on its behalf.

10. From approximately January 2007 to August 2007, while falsely holding himself out as an authorized representative of Lloyd's, Respondent received first year's homeowners' insurance premium payments directly from two (2) mortgage companies: American General Home Equity, Inc. ("American General") and Citifinancial Services, Inc. ("Citifinancial").

11. As a convenience and benefit to homeowners, both American General and Citifinancial withheld the first year's insurance premiums from the mortgage loan proceeds and paid the premiums directly to the insurance companies or their representatives. While falsely holding himself out as an authorized representative of Lloyd's, Respondent received sixty-five thousand nine hundred sixty-four dollars and sixty-four cents (\$65,964.64) in first year's insurance premium payments made directly by American General and Citifinancial.

12. Upon receiving the first year's insurance premium payments from American General and Citifinancial, Respondent issued to homeowners false certificates/binders of insurance purportedly evincing insurance coverage underwritten by Lloyd's. Respondent accomplished these activities through the United States Postal Service.

13. On February 7, 2008, Respondent was indicted by a federal grand jury in the Eastern District of Kentucky on eighty-five (85) counts of mail fraud, a violation of 18 U.S.C. § 1341.

14. On January 22, 2009, Respondent pleaded guilty to ten (10) counts of mail fraud and received a twenty-four (24) month sentence of confinement. Respondent began serving his sentence of confinement on January 5, 2010.

15. On November 4, 2008, Respondent's resident insurance producer license was revoked by Default Order by the South Carolina Department of Insurance after he failed to appear to respond to allegations that he failed to remit sixteen thousand five hundred sixty-one dollars and thirty-seven cents (\$16,561.37) in premium payments to Foremost Insurance Company.

#### CONCLUSIONS OF LAW

16. TENN. CODE ANN. § 56-6-112(a)(2) (Supp. 2007) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license and/or levy a civil penalty for anyone who violates any law, rule, regulation, subpoena or order of the Commissioner or of another state's Commissioner.

17. TENN. CODE ANN. § 56-6-112(a)(4) (Supp. 2007) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license and/or levy a civil penalty for anyone who improperly withholds, misappropriates or converts any moneys or properties received in the course of doing insurance business.

18. TENN. CODE ANN. § 56-6-112(a)(6) (2008) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license and/or levy a civil penalty for anyone convicted of a felony.

19. TENN. CODE ANN. § 56-6-112(a)(8) (Supp. 2007) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license and/or levy a civil penalty for anyone who uses fraudulent, coercive or dishonest practice or demonstrates incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

20. TENN. CODE ANN. § 56-6-112(a)(9) (2008) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license and/or levy a civil penalty for anyone who has an insurance producer license, or its equivalent, denied, suspended or revoked in

another state, province, district or territory.

**ORDER**

**NOW THEREFORE**, on the basis of the foregoing and the waiver of Respondent 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 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) that:

The insurance producer license, numbered 801877, issued to David C. Thomas, is hereby **REVOKED**.

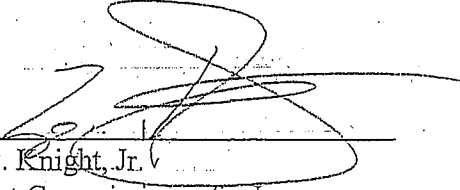
This Consent Order is in the public interest and in the best interests of the parties, and represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By signature affixed below, David C. Thomas, affirmatively states that he has freely agreed to the entry of this Consent Order, that he has been advised that he may consult with legal counsel in this matter (at his expense), that he waives his 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.**

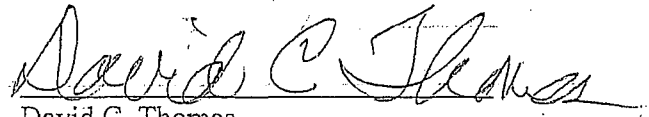
**ENTERED** this the 9<sup>th</sup> day of August, 2010.

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

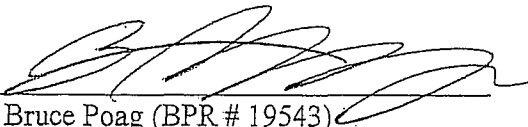
APPROVED FOR ENTRY:



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



David C. Thomas  
FCI Edgefield  
P.O. Box 725  
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