

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

4. The Respondent fully understands that this Agreed Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for violations of the law addressed specifically in this Agreed Order, or for violations of the 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 entry and execution of this Agreed Order.

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

6. The Respondent fully understands that this Agreed Order, when entered, will constitute a public document for purposes of any applicable statutes governing public access to government records.

II. AUTHORITY AND JURISDICTION

7. The Commissioner has jurisdiction over insurance matters pursuant to Title 56 of the Tennessee Code Annotated ("Tenn. Code Ann."), specifically Tenn. Code Ann. §§ 56-1-202

and 56-6-112 (the “Law”). The Division is the lawful agent through which the Commissioner discharges this responsibility.

III. PARTIES

8. The Division is the lawful agent through which the Commissioner discharges the administration of the Law, and it is authorized to bring this action for the protection of Tennessee citizens.

9. The Respondent’s address of record is: 1102 Dennis Avenue, Jasper, Tennessee 37347. He has held a valid resident insurance producer license, number 0604527, since approximately July 1, 1976, and at all times relevant to this Agreed Order, maintained the responsibility to comply with insurance law, rules, and regulations of the State of Tennessee.

IV. FINDINGS OF FACT

10. At all times relevant, the Respondent was licensed in Tennessee as a resident insurance producer.

11. At all times relevant, the Respondent was employed as a debit agent by Columbian Mutual Life Insurance Company (“Columbian”).

12. The Respondent was responsible for collecting debit payments from Columbian policyholders and remitting those payments to Columbian, monthly.

13. Columbian drafted the Respondent’s balance due for remittal from the Respondent’s bank account each month.

14. The Respondent’s September 2017 balance due of two thousand, six hundred ninety-six dollars and forty-eight cents (\$2,696.48) for remittal to Columbian was returned for insufficient funds. This was the Respondent’s first returned draft payment in the past eighteen (18) months.

15. Colombian successfully collected the Respondent's September 2017 balance on November 10, 2017.

16. The Respondent's May 2018 balance due of two thousand, two hundred fifty-four dollars and thirty-six cents (\$2,254.36) for remittal to Colombian was returned for account closed. This was the Respondent's second returned draft payment in the previous eighteen (18) months.

17. Colombian successfully collected the Respondent's May 2018 balance on or about July 13, 2018.

18. The Respondent's July 2018 balance due of two thousand, four hundred ninety-one dollars and ninety-seven cents (\$2,491.97) for remittal to Colombian was returned for insufficient funds. This was the Respondent's third returned draft payment in the previous eighteen (18) months.

19. Colombian successfully collected the Respondent's July 2018 balance on or about September 11, 2018.

20. The Respondent's August 2018 balance due of two thousand, ninety-eight dollars and thirty-four cents (\$2,098.34) for remittal to Colombian was returned for insufficient funds. This was the Respondent's fourth returned draft payment in the previous eighteen (18) months.

21. Colombian determined that, as this was the fourth time the Respondent's draft payments had been returned in eighteen (18) months, the Respondent should be terminated due to misappropriation of premium deposit account funds.

22. On or about October 12, 2018, Colombian terminated the Respondent, for cause.

23. On or about October 17, 2018, Colombian notified the Division that the Respondent was terminated, for cause.

24. On or about November 20, 2018, the Division issued Inquisitorial Order No. 18-070, ordering the Financial Services Investigations Unit (“FSIU”) to investigate possible violations of the Law.

25. On or about January 9, 2019, Monica Meeks, investigator for FSIU, conducted an interview with the Respondent.

26. During the January 9, 2019, interview, the Respondent admitted that most of his customers paid in cash and there were insufficient funds in several accounts, but he would “come up with the money to pay the debits.”

27. During the January 9, 2019, interview, the Respondent further stated that he agreed to make monthly payments of four hundred dollars (\$400) to pay his balance of two thousand, nine hundred thirty-six dollars and ninety-six cents (\$2,936.96) with Colombian, but he did not pay off the balance because he was upset with Colombian.

28. On January 9, 2019, the Respondent provided FSIU a written statement that read, in part, “I am sorry I owe some money” and “I am not perfect nor is any one.”

29. As of the date of this Agreed Order, the Respondent has not paid the balance due Colombian.

V. CONCLUSIONS OF LAW

30. Tenn. Code Ann. § 56-6-112 establishes:

- (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:

...

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

...

- (4) Improperly withholding, misappropriating or converting any moneys or properties received while doing insurance business;

...

- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

...

- (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.
- (f) The commissioner may serve a notice or order in any action arising under this part by registered or certified mail to the insurance producer or applicant at the address of record in the files of the department. Notwithstanding any law to the contrary, service in the manner set forth in this subsection (f) shall be deemed to constitute actual service on the insurance producer or applicant.
- (g) If, after providing notice consistent with the process established by § 4-5-320(c), and providing the opportunity for a contested case hearing held in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, 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.

31. The Respondent committed violations of Tenn. Code Ann. § 56-6-112(a)(4) and (8) when the Respondent failed to remit premium account funds due to Columbian four (4) times in eighteen (18) months and continues to owe a balance to Columbian.

32. The Respondent hereby acknowledges the Commissioner's authority to administer the statutes cited herein, concedes that the interpretation of the statutes cited herein are reasonable

and enforceable, and agrees to the Commissioner's entry and execution of this Agreed Order, including each of the following sanctions ordered below.

VI. ORDER

NOW, THEREFORE, based on the foregoing, including the Respondent's waiver of the right to a hearing and appeal under the Law and the Tennessee Uniform Administrative Procedures Act, and the Respondent's admission to the jurisdiction of the Commissioner, the Commissioner finds that the Respondent admits to the Findings of Fact and Conclusions of Law contained herein, agrees to the entry and execution of this Agreed Order, and finds this Agreed Order to be 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, that:

1. The Respondent's Tennessee resident insurance producer license, number 0604527, is hereby **REVOKED**.

2. This Agreed Order represents the complete and final resolution of and discharge of all administrative and civil claims, demands, actions, and causes of action by the Commissioner against the Respondent for violations of the Law with respect to the transactions involved in the above-referenced facts; however, excluded from, and not covered by this paragraph, are any claims by the Division arising from or relating to the enforcement of the Agreed Order provisions contained herein.

3. This Agreed Order is in the best interest of both the public, and the parties, and represents a compromise and settlement of the controversy between the parties. By his signature affixed below, the Respondent states that he has: (1) freely agreed to the entry and execution of this Agreed Order; (2) been afforded the opportunity to 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 Agreed Order and the enforcement of this Agreed Order. The 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 Agreed Order.

4. By signing this Agreed Order, the parties affirmatively state their agreement to be bound by the terms of this Agreed Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of the settlement as set forth herein, are binding upon them.

5. This Agreed Order may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document. The facsimile, email, or other electronically delivered signatures of the parties shall be deemed to constitute original signatures, and facsimile or electronic copies shall be deemed to constitute duplicate originals.

ENTERED AND EXECUTED by the Commissioner on September 8, 2020.


Hodgen Mainda (Sep 8, 2020 17:15 CDT)

Hodgen Mainda, Commissioner
Department of Commerce and Insurance

This Agreed Order is entered and effective this 10th day of September, 2020.
Once signed by the Administrative Law Judge presiding over this matter, this matter is
DISMISSED as there are no issues remaining to be resolved.

It is so **ORDERED**.



Steve R. Darnell
Administrative Judge
Administrative Procedures Division
Office of the Secretary of State

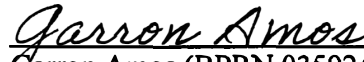
APPROVED FOR ENTRY AND EXECUTION:



Sammy C. Summers
Respondent
Pro Se



Rachel Jade-Rice (Sep 8, 2020 16:00 CDT)
Rachel Jade-Rice
Assistant Commissioner for Insurance
Department of Commerce and Insurance



Garron Amos (BPRN 035924)
Associate General Counsel
Department of Commerce and Insurance