0707981

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

TENNESSEE INSURANCE DIVISION, Petitioner,	)	
	)	No: 09-009
vs.	)	
GARRY WAYNE JONES, Respondent.	)	

CONSENT ORDER

The Insurance Division of the State of Tennessee Department of Commerce and Insurance (the "Division"), by and through counsel, and Garry Wayne Jones ("Respondent"), hereby stipulate and agree, subject to the approval of the Commissioner 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 the Commissioner.

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

3. 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.

4. Respondent fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner against the 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 the Respondent currently holds or for which he applies in the future.

5. 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

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

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, residing at 150 Scotts Drive, Lebanon, Tennessee 37087.

9. Respondent has an insurance producer license, numbered 707981, which was issued in 1989.

10. In February 2006, Respondent resigned as Clerk and Master of the Jackson County Chancery Court, a position he held since 1996, amidst an investigation being conducted by the Tennessee Bureau of Investigation ("TBI") regarding accounting irregularities in the Clerk and Master's Office.

11. The Division of County Audit of the Comptroller of the Treasury conducted an audit of the Clerk and Master's Office for the fiscal year ended June 30, 2005.

12. The audit revealed that the Clerk and Master's Office had two (2) account shortages totaling three thousand two hundred thirty-eight dollars and twenty-three cents ($3,238.23). The first account shortage in the amount of two thousand one hundred eight dollars and twenty-three cents ($2,108.23) existed on March 3, 2005. The funds were received by the Clerk and Master on November 11, 2004 but were not deposited in the Clerk and Master's bank account as required by TENN. CODE ANN. § 5-8-207. On June 30, 2005, Respondent deposited in the Clerk and Master's bank account the full amount of the shortage. The deposit by Respondent was comprised of customer checks in the amount of nine hundred seventy-one dollars and seventy-eight cents ($971.78) from the original November 11, 2004 receipts and one thousand one hundred thirty-six dollars and forty-five cents ($1,136.45) from Respondent's personal funds. Respondent admitted to TBI special agents Jason Locke and Russ Winkler that the cash portion of the November 2004 receipts—one thousand one hundred thirty-six dollars and forty-five cents ($1,136.45)—was retained by him for his personal use.

13. The second account shortage in the amount of one thousand one hundred thirty dollars ($1,130) existed on June 30, 2005. Five hundred forty dollars ($540) was received by the Clerk and Master on December 21, 2004 but was not deposited in the Clerk and Master's bank account as required by TENN. CODE ANN. § 5-8-207. Five hundred ninety dollars ($590) was withdrawn by Respondent when he cashed a personal check from the Clerk and Master's cash fund. Respondent's personal check was subsequently returned due to insufficient funds in the account on which the check was drawn. On July 15, 2005, Respondent deposited in the Clerk and Master's bank account five hundred forty dollars ($540) from his personal funds. On August 4, 2005, Respondent deposited in the Clerk and Master's bank account five hundred ninety dollars ($590) from his personal funds.

During the audit, Respondent stated to Comptroller of the Treasury auditor Rodney Malin that he knew the balance in his personal checking account was insufficient to cover the amount of the check at the time it was written.

14. The audit also revealed that from September 2004 through February 2005, the Clerk and Master's bank account statements were not reconciled with the Clerk and Master's general ledger for end of month reports. Respondent stated to TBI special agents Locke and Winkler that he reconciled the Clerk and Master's bank account statements with the Clerk and Master's general ledger simply by subtracting the amount of bank deposits from the cash journal receipts rather than counting and confirming the actual amount of cash on hand. From September 2004 through February 2005, Respondent made false entries in the Clerk and Master's accounting records to fraudulently indicate that its accounting records were balanced.

15. In April 2006, Respondent was indicted by the Jackson County Grand Jury on one (1) count of official misconduct, one (1) count of theft of property over one thousand dollars ($1,000), one (1) count of passing a worthless check and one (1) count of destruction of and tampering with governmental records.

16. On August 24, 2006 in the Jackson County Criminal Court, Respondent was placed on pre-trial diversion for a period of two (2) years. Based on the Pre-Trial Diversion Memorandum of Understanding, Respondent was required to pay five hundred ten dollars ($510) in court costs and not be convicted of any misdemeanor or felony offenses during the two (2) year diversion period. Respondent completed the two (2) year diversion period without being convicted of any misdemeanor or felony offenses.

CONCLUSIONS OF LAW

17. TENN. CODE ANN. § 5-8-207(a)(1) provides that every county official handling public funds shall be required to maintain an official bank account in a bank or banks within this state, and shall, within three (3) days after the receipt by such county official of any public funds, deposit the funds to the credit of such county official's bank account, or bank accounts.

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

19. Based on the Findings of Facts cited above, the Commissioner finds that Respondent violated TENN. CODE ANN. §§ 5-8-207(a)(1) and 56-6-112(a)(8) and is subject to sanctions. Respondent agrees, therefore, to the entry of an Order revoking his insurance producer license pursuant to TENN. CODE ANN. § 56-6-112(a)(8).

ORDER

NOW, THEREFORE, based on 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 707981, issued to Garry Wayne Jones, 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, Garry Wayne Jones, 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, and has had the opportunity to consult with legal counsel, 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 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 4th day of May, 2009.

Leslie A. Newman

Leslie A. Newman, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

Larry C. Knight, Jr.
Assistant Commissioner for Insuranc
Department of Commerce and Insurance
Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243

Garry Wayne Jones
150 Scotts Drive
Lebanon, Tennessee 37087

Bruce Poag (BPR # 19543)
Assistant General Counsel
Department of Commerce and Insurance
Davy Crockett Tower
500 James Robertson Parkway
Nashville, Tennessee 37243
615.253.7994