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

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| **TENNESSEE INSURANCE DIVISION,** | ) | |
| **Petitioner,** | ) | |
| | ) | **TID No.: 16-021** |
| **vs.** | ) | |
| | ) | |
| **RELIAMAX SURETY COMPANY** | ) | |
| **Respondent.** | ) | |

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## CONSENT ORDER

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**WHEREAS**, Petitioner, the Insurance Division of the Tennessee Department of Commerce and Insurance (the "Division"), and the Respondent, ReliaMax Surety Company ("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. This Consent Order is executed by the Respondent for the purpose of obtaining Division approval of Respondent's application for insurance company licensure 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 taking such further actions as laws may require or permit.

3. 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 stipulations contained herein, and the consideration and entry of said Consent Order by the Commissioner.

## AUTHORITY AND JURISDICTION

4. The Commissioner has jurisdiction over this matter pursuant to Tennessee Insurance Law ("Law"), Title 56 of the Tennessee Code Annotated ("Tenn. Code Ann."), specifically, Tenn. Code Ann. §§ 56-1-101 *et seq.*, §§ 56-1-401 *et seq.*, §§ 56-2-101 *et seq.* and § 56-2-412. The Law places on the Commissioner the responsibility of the administration of its provisions.

## FINDINGS OF FACT

5. The Division is the lawful agent through which the Commissioner administers the Law.

6. Respondent is a surety insurance company licensed domiciled in the state of South Dakota. Upon information and belief, Respondent's principal place of business is: 2300 East 54th Street North, Sioux Falls, South Dakota 57104.

7. Respondent writes surety insurance in the form of security bonds issued to insure default protection on private student loans to banks, credit unions, and other financial institutions.

8. On or about April 14, 2014, Respondent applied for a license to sell surety insurance in the state of Tennessee pursuant to Tenn. Code Ann. §§ 56-1-101, *et seq.*

9. During review of Respondent's application for licensure, the Division reviewed a 2013 market conduct examination conducted by the state of South Dakota and also received information indicating Respondent sold surety bonds to approximately six (6) banks, credit

unions, or other financial institutions located in the state of Tennessee between the years 2009 and 2015, to protect the lenders from student loan default.

10. Respondent's total billed gross premium paid with respect to Tennessee policyholders for this time period was three million, two hundred sixty-one thousand, six hundred eight-one dollars ($3,261,681).

11. Respondent did not at any time relevant hereto hold a license to sell insurance in the state of Tennessee and has not received approval from the Tennessee Department of Commerce and Insurance to transact business as a surplus lines insurer. Additionally, the surety bonds issued in Tennessee were not procured from a qualified surplus lines broker authorized to transact insurance business in the state of Tennessee.

12. Respondent agrees to enter into this Consent Order for the sole purpose of resolving this matter without admitting to violating Tennessee Insurance Law and to avoid further proceedings.

## CONCLUSIONS OF LAW

13. Pursuant to Tenn. Code Ann. § 56-2-102(a), Respondent must obtain a certificate of authority to engage in the business of insurance in the State of Tennessee.

14. Tenn. Code Ann. § 56-2-105 provides that "[i]t is unlawful for any company to enter into a contract of insurance as an insurer or to transact insurance business in this state without a certificate of authority from the commissioner[.]"

15. Pursuant to Tenn. Code Ann. § 56-2-107, the transaction of insurance business in this state by an unauthorized insurer shall constitute any of the following transactions effectuated by mail or otherwise by an entity without a certificate of authority:

> (1) The issuance or delivery of contracts of insurance to residents of this state;

(2) The solicitation of applications for contracts of insurance;

(3) The collection of premiums, membership fees, assessments or other considerations for contracts of insurance; or

(4) The transaction of matters subsequent to the execution of contracts of insurance and arising out of them.

16. Tenn. Code Ann. § 56-4-205 provides in part that all insurance companies writing surety insurance in this state "shall pay two and one half percent (2.5%) on gross premiums paid by or for policyholders residing in this state or on property located in this state."

## ORDER

**NOW THEREFORE, IT IS SO ORDERED**, pursuant to Tenn. Code Ann. §§ 56-2-102, 56-2-105, 56-2-107, and 56-4-205 of the Tennessee Insurance Law, that:

1. Respondent shall remit outstanding premium taxes due on the three million, two hundred sixty-one thousand, six hundred eighty-one dollars ($3,261,681) in gross premium paid with respect to Tennessee policyholders for the years 2009 through 2015, in the total amount of **eighty-eight thousand, one hundred ninety-three dollars ($88,193)**. This amount is subject to late payment penalty and interest in the amount of **thirty-one thousand, nine hundred sixteen dollars ($31,916)**.

2. Accordingly, as broken down in detail in the paragraph above, Respondent shall remit a total of **one hundred twenty thousand, one hundred eight dollars ($120,108)** to the Division with respect to these outstanding premium taxes.

This Consent Order is in the public interest and in the best interests of the parties. This Consent Order represents a compromise and agreement between the parties and is necessary for the approval of Respondent's licensure application. By the signatures affixed below, Respondent ReliaMax Surety Company affirmatively states that it has freely agreed to the entry of this Consent Order, that it has been advised that it may consult legal counsel in this matter and has

had the opportunity to consult with legal counsel, that it waives their right to a hearing on the matters underlying this Consent 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 by the Commissioner, the Division, or any agent or representative 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.

Nothing in this Consent Order should be construed to limit the authority of the Insurance Division or the Commissioner to take further action against the Respondents should such action, in the opinion of the Insurance Division or the Commissioner, be necessary.

**SO ORDERED.**

**ENTERED** this the 16 day of May, 2016.

Julie Mix McPeak

Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

**APPROVED FOR ENTRY:**

Mark A. Payne
President and COO
ReliaMax Surety Company
2300 East 54th Street North
Sioux Falls, SD 57104

Michael Humphreys
Assistant Commissioner for Insurance
Department of Commerce and Insurance

Respectfully Submitted,

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