2013533
NPN - 602143

STATE OF TENNESSEE
BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE

IN THE MATTER OF:	)	
	)	
STEPHANIE LYN HICKS	)	**TID Order No. 16-010**
	)	
	)	

CONSENT ORDER

The Insurance Division of the Tennessee Department of Commerce and Insurance ("Division"), by and through counsel, and Stephanie Lyn Hicks ("Hicks") 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 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 Hicks 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.

3. Hicks fully understands that this Consent Order will in no way preclude additional proceedings by the Commissioner for acts and/or omissions not specifically addressed in this Consent Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. Hicks fully understands that this Consent Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for violations of Title 56 of the Tennessee Code Annotated addressed specifically in this Consent Order, against Hicks 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 Consent Order by Hicks.

5. Hicks 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 Consent Order, the stipulations and imposition of discipline contained herein, and the consideration and entry of said Consent Order by the Commissioner.

6. Hicks fully understands that this Consent Order, when entered, will constitute a public document for purposes of any applicable statutes governing access by the public to government records.

7. Hicks agrees that facsimiles of their respective signatures on this Consent Order—scanned in portable document format (PDF) or similar format—returned by electronic means, if accepted by the Division, are effective as original signatures and that the Consent Order may be issued with such facsimile signatures.

AUTHORITY AND JURISDICTION

8. 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

9. 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.

10. Hicks is a citizen and resident of the State of Tennessee. Hicks's addresses of record on file with the Division are 14900 Flatwoods Rd., Sweetwater, Tennessee 37874-3614 and 9131 Cross Park Dr., #200, Knoxville, Tennessee 37923.

11. Hicks holds Insurance Producer license number 2013533, which expires on October 31, 2017.

FINDINGS OF FACT

12. From on or about August 20, 2012, to on or about March 2014, and at all times relevant, Hicks served as a unit supervisor with Banker's Life and Casualty Company ("BLC").

13. Hicks sold various insurance products including long term care and critical illness health insurance.

14. In or about August 2012, Hicks met with her client, Ms. Ellen R. Adcock, an elderly Tennessee resident.

15. Hicks showed Ms. Adcock long term care and critical care health insurance policies.

16. Ms. Adcock expressed interest in and completed various health insurance documents to obtain health insurance coverage through BLC.

17. Hicks prepared an insurance application and policy related documents for Ms. Adcock's signature.

18. Hicks had an obligation to inform Ms. Adcock about the benefits and policy terms of a long term care health insurance policy and a critical care health insurance policy.

19. Hicks had an obligation to inform Ms. Adcock about the renewal premiums associated with a long term care health insurance policy and a critical care health insurance policy.

20. Hicks, at no point in time, had authority to sign Ms. Adcock's name to any insurance related documents.

21. From on or about September 23, 2012, to on or about September 25, 2012, Hicks failed to ensure that Ms. Adcock's policy was properly executed.

22. Forensic analysis later determined that Ms. Adcock's signature was forged on two (2) policy delivery receipts.

23. These policy delivery receipts intended to evidence that Ms. Adcock understood the benefits and terms of her long term care health insurance policy, policy number 212-023-477, and critical care health insurance policy, policy number 212-022-684.

24. These policy delivery receipts also intended to evidence that Ms. Adcock understood the exact amount of her renewal premium.

25. From on or about September 23, 2012, to on or about September 25, 2012, Ms. Adcock never received a copy of her long term care health insurance policy and critical care health insurance policy.

26. From on or about August 20, 2012, to on or about March 2014, Ms. Adcock had her bank account automatically debited to pay for her premium payments associated with her long term care health insurance policy and critical care health insurance policy insured by BLC.

27. On or about March 11, 2014, Ms. Adcock realized that her bank account was being automatically debited to pay for premium payments associated with an insurance policy from BLC and notified BLC that she wanted a refund.

28. Hicks failed to ensure that her client, Ms. Adcock, was properly informed as to the terms of her insurance policies with BLC.

29. BLC investigated the policy delivery receipts associated with BLC insurance policy numbers 212-023-477 and 212-022-684 and determined that Ms. Adcock did not sign her name to those policy delivery receipts.

30. By on or about July 18, 2014, Ms. Adcock received a full reimbursement from BLC for her long term care health insurance policy and critical care health insurance policy insured by BLC.

CONCLUSIONS OF LAW

31. Tenn. Code Ann. § 56-6-112(a) provides that the Commissioner may place on probation, suspend, revoke, or refuse to issue or renew a license issued under this part and/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:

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

(10) Forging another's name to an application for insurance or to any document related to an insurance transaction.

32. Tenn. Code Ann. § 56-6-112(a) (2011), states in pertinent part:

....

(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.

....

(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.

(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.

33. Based upon the Findings of Fact stated above and the Conclusions of Law contained herein, the Commissioner considers the actions of Hicks to be in violation of Tenn. Code Ann. §§ 56-6-112(a)(8). Such facts provide grounds for the revocation of Hicks's insurance producer license and the assessment of a civil monetary penalty in accordance with Tenn. Code Ann. § 56-6-112(g).

34. In order to avoid any further expenses or costs associated with litigating this matter in any administrative or judicial proceedings, Hicks 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 Consent Order including each of the sanctions ordered by the Commissioner.

ORDER

NOW, THEREFORE, on the basis of the foregoing, and Hicks'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, and Hick's admission of jurisdiction of the Commissioner, the Commissioner finds that Hicks, admits to the Conclusions of Law, agrees to the entry of this Order and agrees that this Order is in the public interest, necessary for the protection of consumers and consistent with the purposes fairly intended by the policy and provisions of the Law.

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

1. Insurance producer license number 2013533, issued to Hicks, is hereby **SUSPENDED** for a period of three (3) months, beginning immediately upon final execution of this Order.

2. It is **FURTHER ORDERED**, that insurance producer license number 2013533, issued to Hicks, is hereby placed on **PROBATION** for a period of twelve (12) months, beginning July 1, 2016. During the probationary period, Hicks is to complete eight (8) insurance ethics courses provided by BLC that total fifty-five (55) total hours of classes in addition to the annually required continuing education classes.

3. Hicks shall pay the Division a monetary civil penalty in the total sum of two thousand dollars ($2,000) to be paid over a four (4) month period at a rate of five hundred ($500) per month. Hicks' first payment will be due and owing on August 1, 2016. Hicks' last payment will be due and owing on November 1, 2016.

4. Payments for civil penalties shall be considered timely made if it is **received** by the Tennessee Department of Commerce and Insurance according to the above-mentioned schedule of payments. A payment shall be considered timely made if it was **received** by the Tennessee Department of Commerce and Insurance within seven (7) calendar days of the date such payment is due. All payments shall include a copy of the first page of this Order and shall be made payable to "State of Tennessee." All payments shall be mailed to the following address:

Tennessee Department of Commerce and Insurance
ATTN: James R. Witham
Legal Division
Davy Crockett Tower
500 James Robertson Parkway, 8th Floor
Nashville, TN 37243

5. It is **FURTHER ORDERED**, pursuant to Hicks's agreement, that Hicks will write and send a formal apology letter to Ms. Adcock for the hardship this has caused her no later than August 1, 2016.

6. In addition, it is **FURTHER ORDERED** that all persons in any way assisting, aiding, or helping Hicks in any of the aforementioned violations of Tenn. Code Ann. § 56-6-112 shall **CEASE AND DESIST** from all such activities in violation of the Law.

IT IS ORDERED that this Consent 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 Hicks for violations of Tenn. Code Ann. § 56-6-112 alleged by the Division to have occurred with respect to the transactions involving the facts contained herein.

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. By the signatures affixed below, Hicks affirmatively states she has freely agreed to the entry of this Consent Order, that she waives the 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 to her 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 the settlement as set forth in this Consent Order, are binding upon them.

ENTERED this 25 day of July, 2016.

Julie Mix McPeak

Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

APPROVED FOR ENTRY:

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Deputy Commissioner
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