



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

TENNESSEE INSURANCE DIVISION,)
)
 Petitioner,)
)
 vs.) **TID No.: 20-148**
)
 OCOEE LIFE INSURANCE COMPANY,)
)
 Respondent.)
)

AGREED FINAL ORDER

The Insurance Division of the Tennessee Department of Commerce and Insurance (“Division”), by and through counsel, and Ocoee Life Insurance Company (“Respondent” or “Ocoee Life”) hereby stipulate and agree, as follows:

GENERAL STIPULATIONS

1. It is expressly understood that this Agreed Final Order (“Order”) is subject to the acceptance of the Commissioner of the Tennessee Department of Commerce and Insurance (“Commissioner”) and has no force and effect until such acceptance is evidenced by the entry and execution of the Commissioner.

2. This Order is executed by the Respondent for the purpose of avoiding further administrative action with respect to this cause. Furthermore, should this Order not be accepted by the Commissioner, it is agreed that presentation to and consideration of this Order by 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 Order will in no way preclude additional proceedings by the Commissioner against the Respondent for facts or omissions not specifically addressed in this Order or for facts and/or omissions that do not arise from the facts or transactions herein addressed.

4. The Respondent fully understands that this Order will in no way preclude proceedings by state government representatives, other than the Commissioner, for violations of the statutes, rules, or regulations addressed specifically in the Findings of Fact and Conclusions of Law in this Order, or which may arise as a result of the execution of this Order by the Respondent.

5. The 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 Order and the consideration and entry and execution of said Order by the Commissioner.

AUTHORITY AND JURISDICTION

6. The Commissioner has jurisdiction over this matter pursuant to Tennessee insurance law, Title 56 of the Tennessee Code Annotated (“Tenn. Code Ann.”), specifically Tenn. Code Ann. §§ 56-1-101 *et seq.*; 56-1-202; 56-1-401 *et seq.*; 56-2-101 *et seq.*; 56-2-305 (the “Law”). The Law places on the Commissioner the responsibility of the administration of its provisions.

PARTIES

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. The Respondent is a limited credit insurance company licensed by the Commissioner to conduct business in the State of Tennessee.

FINDINGS OF FACT

9. The Respondent is a licensed limited credit insurance company in the State of Tennessee, thereby subjecting the Respondent to regulation pursuant to the Law, specifically Tenn. Code Ann. §§ 56-2-101 *et seq.* and 56-2-201 *et seq.*

10. The Respondent was acquired as part of a larger corporate transaction in 2014 and has been in runoff for the last several years.

11. In the spring of 2020, the Respondent contacted the Division inquiring about the process to voluntarily dissolve the Respondent company.

12. On or about July 23, 2020, the Respondent submitted a financial statement along with a formal request to dissolve.

13. The financial statement submitted by the Respondent reflected that the Respondent did not have the statutorily required minimum capital of one hundred fifty thousand dollars (\$150,000), the required minimum surplus of seventy-five thousand dollars (\$75,000), and had not maintained the statutory deposit of one hundred thousand dollars (\$100,000).

14. In its efforts to dissolve the Respondent entity, the Respondent unintentionally removed the required capital and surplus funds by transferring the money from which the funds were derived.

15. The Respondent's technical non-compliance, which approximately occurred between April 30, 2020, and July 23, 2020, was inadvertent and not purposeful.

16. No new business was written during the time of the non-compliance, nor had any new business been written for several years prior.

17. Respondent is surrendering its Certificate of Authority as part of its Voluntary Dissolution.

CONCLUSIONS OF LAW

18. Pursuant to Tenn. Code Ann. § 56-2-114(b), an insurer must possess and maintain capital in the amount of one hundred fifty thousand dollars (\$150,000) in order to transact the business of reinsuring credit life and credit accident insurance and health insurance.

19. Pursuant to Tenn. Code Ann. § 56-2-115:

[A]ll insurance companies doing business in this state shall possess and maintain bona fide surplus funds in the amount of one million dollars (\$1,000,000), except for insurance companies authorized under § 56-2-114(b), which shall possess and maintain bona fide surplus funds equaling in amounts not less than fifty percent (50%) of the capital stock or surplus otherwise required by § 56-2-114(b).

20. Pursuant to Tenn. Code Ann. § 56-2-104(a)(2)(D)(i), “an insurance company other than a stock or mutual life insurance company . . . shall maintain on deposit at least one hundred thousand dollars (\$100,000) in cash or its equivalent for each kind or class of insurance[.]”

21. Tenn. Code Ann. § 56-2-305(a)(2) provides, in pertinent part, that violation of a statute by an insurer subjects the insurer to:

[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), unless the insurer, person, or entity knowingly violates a statute, rule or order, in which case the penalty shall not be more than twenty-five thousand dollars (\$25,000) for each violation, not to exceed an aggregate penalty of two hundred fifty thousand dollars (\$250,000) For purposes of this subdivision (a)(2), each day of continued violation shall constitute a separate violation[.]

ORDER

NOW, THEREFORE, on the basis of the foregoing and the Respondent’s waiver of the right to a hearing and appeal under Tennessee insurance law and Tennessee’s Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101 to 4-5-404, and the Respondent’s admission of jurisdiction of the Commissioner, the Commissioner finds that the Respondent, for

the purpose of settling this matter, admits the Findings of Fact and Conclusions of Law, agrees to the entry and execution of this Order and agrees that this Order is in the public interest necessary for the protection of insureds and consistent with the purposes fairly intended by the policy and provisions of the Law.

IT IS ORDERED that:

1. Ocoee Life shall pay one thousand dollars (\$1,000) based on Facts Number 9.-16. above.

2. This Order is in the public interest and in the best interests of the parties. This Order represents a compromise and settlement of the controversy between the parties and is for settlement purposes only. By the signature affixed below, Ocoee Life Insurance Company, affirmatively states that it has freely agreed to the entry and execution of this 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 its right to a hearing on the matters underlying this Order and to a review of the Findings of Fact and Conclusions of Law contained herein and the enforcement of this Order, 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 Order, affirmatively state their agreement to be bound by the terms of this Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Order, are binding upon them.

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

4. This 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.

IT IS SO ORDERED.

ENTERED AND EXECUTED October 26, 2020.



Hodgen Mainda (Oct 26, 2020 11:42 CDT)
Hodgen Mainda, Commissioner
Department of Commerce and Insurance

