

TN # 0741190

BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE FOR THE STATE OF TENNESSEE NPN-2801723

TENNESSEE INSURANCE DIVISION,
Petitioner,
vs.
MICHAEL RAY BRENTS,
Respondent.

No: 10-040

CONSENT ORDER

The Insurance Division of the Tennessee Department of Commerce and Insurance ("Insurance Division"), by and through counsel, and Michael Ray Brents ("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 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 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

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.

#### **JURISDICTION**

6. The Commissioner has jurisdiction pursuant to the Tennessee Insurance Law (the "Law"), Tenn. Code Ann. § 56-6-101 *et seq.*, and the Law places the responsibility for the administration of the Law on the Commissioner.

#### **PARTIES**

7. The Insurance 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 169 Walnut Grove Drive, Kingsport, Tennessee 37642. Respondent's insurance producer license, numbered 741190, was issued in 1993. Respondent conducts insurance business at Brents Insurance Agency located at 809 East Sullivan Street, Kingsport, Tennessee 37660.

## FINDINGS OF FACT

9. From approximately May 16, 1996 until February 19, 2009, Respondent was an appointed agent of Farmers Insurance Group ("Farmers").

10. On approximately December 12, 2008, Respondent admitted to a Farmers auditor and assistant district manager that he had misappropriated three thousand eight hundred eighty dollars (\$3,880) paid to him by customers Johnnie and Evelyn Redwine d/b/a Reliable Plumbing Contractors.

11. On approximately June 20, 2008, the Redwines issued to Respondent a check in the amount of four thousand three hundred eight dollars (\$4,308) made payable to the order of Farmers Insurance for automobile, commercial and homeowner's insurance policies.

12. Respondent admitted to depositing the check into his business operating account and only forwarding four hundred twenty-eight dollars (\$428) to Farmers. Respondent also admitted that he retained three thousand eight hundred eighty dollars (\$3,880) for both business and personal expenses. As a result, Farmers only issued a commercial insurance policy to the Redwines, not automobile or homeowner's insurance policies.

13. On approximately August 6, 2008, the Redwines' 2006 Chevrolet Silverado truck was involved in a property damage accident. When the Redwines attempted to file a claim for damages, they discovered that the automobile was not insured due to non-payment of premiums.

14. Based on Respondent's admission of misappropriation of the Redwines' insurance premium payment, Farmers terminated Respondent's appointment on approximately February 19, 2009 and notified the Department.

15. Farmers subsequently reimbursed the Redwines three thousand eight hundred eighty dollars (\$3,880).

16. On approximately March 17, 2004, Respondent was named as defendant in a civil lawsuit filed in the United States District Court for the Eastern District of Tennessee at Greeneville titled *S&G Labor, LLC, et al. v. Brents* (2:04-cv-00085). The lawsuit arose from allegations that Respondent had breached his fiduciary duty while he was engaged in accepting and submitting workers' compensation

insurance applications for businesses. On approximately September 14, 2005, the lawsuit was settled.

17. On approximately October 6, 2004, while the lawsuit was pending, Respondent submitted to the Department his insurance producer renewal application.

18. On the renewal application, Respondent falsely stated that there had been no demands or judgments rendered against him for overdue monies by an insurer, insured or producer since his last renewal.

19. On the same renewal application, Respondent also falsely stated that he was currently not a party to, or had not been found liable in, any lawsuit or arbitration proceeding involving allegations of fraud, misappropriation or conversion of funds, misrepresentation or breach of fiduciary duty since the last renewal.

20. On approximately October 5, 2005, shortly after the lawsuit was settled, Respondent submitted to the Department another insurance producer renewal application.

21. On the application, Respondent falsely stated that there had been no demands or judgments rendered against him for overdue monies by an insurer, insured or producer since his last renewal.

22. On the same renewal application, Respondent also falsely stated that he was currently not a party to, or had not been found liable in, any lawsuit or arbitration proceeding involving allegations of fraud, misappropriation or conversion of funds, misrepresentation or breach of fiduciary duty since the last renewal.

#### CONCLUSIONS OF LAW

23. Tenn. Code Ann. § 56-6-112(a)(1) (Supp. 2007) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license and/or may levy a civil penalty for anyone who provides incorrect, misleading, incomplete or materially untrue information in the license application.

24. Tenn. Code Ann. § 56-6-112(a)(4) (Supp. 2007) provides that the Commissioner may place on probation, suspend, revoke or refuse to issue or renew a license and/or may levy a civil penalty

for anyone who improperly withholds, misappropriates or converts any moneys or properties received in the course of doing insurance business.

25. Based on the Findings of Facts cited above, the Commissioner finds that Respondent provided misleading information on the insurance producer license renewal application and improperly withheld moneys received in the course of doing insurance business.

26. Such facts would constitute grounds for an Order revoking Respondent's insurance producer license and assessing a civil penalty against him based on violations of Tenn. Code Ann. § 56-6-112(a)(1) and (4) (Supp. 2007). Respondent concedes that the Conclusions of Law contained herein are fair and reasonable as outlined above. Respondent enters into this Consent Order for the sole purpose of avoiding further administrative action with respect to this cause.

### **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) (Supp. 2007) that:

The insurance producer license, numbered 741190, issued to Michael Ray Brents, 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, Michael Ray Brents, 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, 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 Insurance Division or any agent thereof.

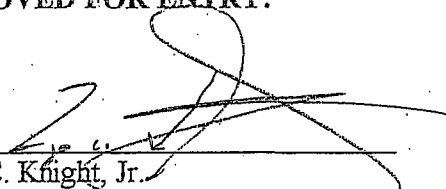
The parties, by signing this Consent Order, affirmatively state their agreement to be bound by the terms of this Consent Order and aver that no promises or offers relating to the circumstances described herein, other than the terms of settlement set forth in this Consent Order, are binding upon them.

**SO ORDERED.**

ENTERED this the 9<sup>th</sup> day of August, 2010.

Leslie A. Newman  
Leslie A. Newman, Commissioner  
Department of Commerce and Insurance

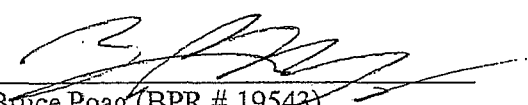
**APPROVED FOR ENTRY:**



Larry C. Knight, Jr.  
Assistant Commissioner for Insurance  
Department of Commerce and Insurance



Michael Ray Brents  
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