

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

TENNESSEE INSURANCE DIVISION,)
 Petitioner,)
)
vs.)
)
Gregory David Layne,)
 Respondent,)

TID No.: 11-106

CONSENT ORDER

The Insurance Division of the Tennessee Department of Commerce and Insurance (the "Division"), by and through counsel, and Gregory David Layne ("Respondent") 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 signed by the Commissioner.
2. The Commissioner has determined that the resolution set forth in this Consent Order is fair and reasonable, and in the best interest of the public.
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 specified herein. Respondent further understands and agrees that this Consent Order may be used by the Commissioner or any Commissioner, Department, or Board to revoke or refuse to issue any license currently held by Respondent 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 this Consent Order by the Commissioner.

FINDINGS OF FACT

6. The Commissioner has jurisdiction pursuant to the Tennessee Insurance Law (the "Law"), Title 56 of 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 whose address of record is: 7072 Homestead Circle, Hixson, TN 37343. In 1992, the Division granted Respondent an insurance producer license, numbered 0733816.

9. On or about July 2, 2009, Brian Jerd ("Jerd"), owner of Chattanooga Window Medics, Chattanooga, Tennessee, notified the Division that he paid Respondent one thousand four hundred thirty-five dollars (\$1,435) to have a general liability policy

issued through a broker, Appalachian Underwriters, Inc. ("AU"), for coverage from December, 2007, through April, 2009.

10. On or about April 10, 2009, Jerd requested that Respondent renew the general liability policy, add a specific glass glazing liability rider to the policy, and have a separate policy for workers compensation ("WC") issued. Respondent thereafter provided Jerd a certificate purportedly renewing the general liability policy through Farmers Insurance Group ("Farmers"), adding the specific glass glazing liability rider to the policy, and confirming issuance of a separate WC policy through AU.

11. In July, 2009, Jerd discovered that the requested policies had not, in fact, been issued, and subsequently filed a complaint against Respondent with the Division and Farmers.

12. Farmers initiated a review and contacted Respondent with its findings on or about July 13, 2009. On that same date, Respondent bound the policy through Farmers and remitted to it the amount of premiums that Jerd had paid to him in April of 2009.

13. Farmers subsequently issued coverage for the 2009 WC policy and terminated Respondent's appointment. Respondent then issued a full refund to Jerd for the premiums Jerd paid Respondent during the time that Respondent failed to have the policies issued.

14. In late 2010, Jennifer Freeman ("Freeman") filed an action against Respondent in the Circuit Court of Hamilton County, Tennessee, alleging that Respondent agreed to have Farmers issue a flood policy covering her property but failed to get the policy issued. This case was subsequently dismissed without prejudice upon entry of an agreed order.

15. The flood policy was allegedly issued on November 9, 2007, and was to be extended each year through November of 2009.

16. On or about September 22, 2009, Freeman's property was damaged by flooding, and Freeman notified Respondent of the loss.

17. Since Respondent had failed to have a flood insurance policy issued, he hired contract labor to repair the damage and paid for such labor out of his private funds. Respondent also issued a flood insurance policy for Freeman and paid the sum of eight-hundred ninety-six dollars (\$896) out of his private funds. Freeman discovered that Respondent failed to have a flood policy issued during the year of the claim as a result of her dissatisfaction with the repair work Respondent had privately contracted for.

CONCLUSIONS OF LAW

18. TENN. CODE ANN. § 56-6-112(a)(4) provides, in pertinent part, that the Commissioner may place on probation, suspend, revoke, or refuse to issue or renew any insurance producer license and impose civil penalties upon finding that the insurance producer or applicant improperly withheld, misappropriated, or converted any moneys or properties received in the course of doing insurance business.

19. TENN. CODE ANN. § 56-6-112(a)(8) provides, in pertinent part, that the Commissioner may place on probation, suspend, revoke, or refuse to issue or renew any insurance producer license and impose civil penalties upon finding the insurance producer used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

20. TENN. CODE ANN. § 56-6-116 provides, in pertinent part, that any money

received by an insurance producer for soliciting, negotiating, or selling insurance shall be held in a fiduciary capacity, and any misappropriation, conversion, or improper withholding of money held in a fiduciary capacity is grounds for the denial, suspension, or revocation of the insurance producer's license and subjects the insurance producer to sanctions and penalties as set forth in TENN. CODE ANN. § 56-6-112.

21. Based upon the Findings of Fact cited above the Commissioner finds that Respondent violated TENN. CODE ANN. §§ 56-6-112(a)(4), (8) and § 56-6-116 by engaging in dishonest practices, and demonstrating untrustworthiness in the conduct of business in this state by misappropriating premium payments, and failing to purchase insurance policies contracted for.

22. Such facts constitute grounds for an order revoking Respondent's insurance producer license in accordance with TENN. CODE ANN. § 56-6-112(a)(4), (8) and § 56-6-116. Such facts also constitute grounds for an order assessing civil penalties against Respondent in an amount not more than one thousand dollars (\$1,000) for each separate violation of the law occurring after July 1, 2011 in accordance with TENN. CODE ANN. § 56-6-112(g), and an amount not more than twenty-five thousand dollars (\$25,000) for each separate violation committed knowingly to all acts occurring prior to July 1, 2011 in accordance with TENN. CODE ANN. § 56-2-305.

23. Respondent neither admits nor denies the Findings of Fact stated in paragraphs 6 through 17 above, but understands that such findings, if true, could subject him to the sanctions specified in TENN. CODE ANN. § 56-6-112. In order to avoid any further expenses or costs associated with litigating this matter in any administrative or judicial proceedings, Respondent 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, based on the foregoing and the waiver by 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 Respondent, Gregory David Layne, has agreed to the entry of this Consent Order and that this Consent Order is appropriate, in the public interest, and necessary for the protection of the public.

IT IS THEREFORE ORDERED, pursuant to TENN. CODE ANN. § 56-6-112 that:

1. The insurance producer license, numbered 0733816, issued to Respondent, Gregory David Layne, is hereby **REVOKED**, and Respondent is barred from applying for any type of insurance producer license in this State;
2. Respondent shall no longer conduct further business for which an insurance license is required under the Law; and
3. Respondent shall pay to the Division a penalty in the total sum of twenty-five thousand dollars (\$25,000), payable in eighty-four (84) monthly installments of approximately two hundred ninety-seven dollars and seventy cents (\$297.70) per month. Each payment shall be due on the first

(1st) of each month and will be deemed a missed payment if not received by the fifth (5th) of each month. Any missed payment will result in the Department having full discretion to demand the remaining balance of the twenty-five thousand dollar (\$25,000) civil penalty or release the Commissioner from the terms of this order to pursue the full legal remedy in this matter. The first monthly payment shall become due on the first (1st) of the month directly following the final entry of this Consent Order.

This Consent Order represents the complete and final resolution and discharge of administrative remedies available to the Commissioner under TENN. CODE ANN. § 56-6-112 against Respondent for violations of the Law arising out of the Findings of Fact set forth in paragraphs 6 through 17 above. However, this Consent Order shall in no way preclude a third party or other authority from pursuing civil remedies or criminal action against Respondent which may otherwise be available.

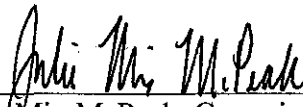
This Consent Order is in the public interest and in the best interests of the parties, represents a compromise and settlement of the controversy between the parties, and is for settlement purposes only. By signature affixed below, Respondent, Gregory David Layne, affirmatively states that he has: (a) freely agreed to the entry of this Consent Order; (b) had the opportunity to consult with legal counsel in this matter; (c) reviewed the Findings of Fact and Conclusions of Law contained herein; and (d) waives his right to a hearing on the matters underlying this Consent Order. Respondent further states that no threats or promises of any kind have been made by the Commissioner, the Division, or any agent or representative thereof with regard to this Consent Order.

By signing this Consent Order, the parties affirm their agreement to be bound by

the terms of this Consent Order and confirm 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.


IT IS SO ORDERED.

ENTERED this the 30th day of April, 2013.

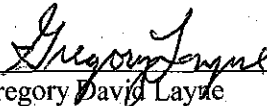


Julie Mix McPeak, Commissioner
Department of Commerce and Insurance

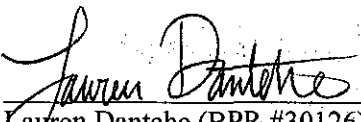
APPROVED FOR ENTRY:



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