Before the State of South Carolina
Department of Insurance

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GENERAL COUNSEL
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STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE

In the matter of:)
)
Lucian S. Kinder,)
)
221 Broad Street)
Sumter, South Carolina 29150.)
)

File Number 103567

Consent Order
Imposing Administrative Penalty

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Lucian S. Kinder, a licensed South Carolina resident insurance agent.

Kinder admits, and I hereby find as fact, that she failed to timely pay the continuing education fee (the CE fee) required by S.C. Code Ann. § 38-43-106(D) (Supp.1999). This act can ultimately lead to the revocation of Kinder's license to transact the business of insurance as an agent in South Carolina following a public hearing at the Administrative Law Judge Division pursuant to S.C. Code Ann. § 38-43-130 (Supp.1999).

Prior to the initiation of any administrative proceedings by the Department against her, Kinder and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision, rather than to proceed toward a formal public hearing. The consensual recommendation was that, in lieu of the Department seeking to revoke Kinder's insurance agent's license, she would waive her right to a public hearing and immediately pay the CE fee and an administrative fine in the total amount of $250.

Section 38-43-106(D) of the South Carolina Code makes insurance agents "responsible for payment to the continuing education administrator of a reasonable annual fee for operation of the continuing education program." Section § 38-43-130 states, in pertinent part, that the Director of Insurance may revoke an agent's license "when it appears that an agent...has violated this title or any regulation promulgated by the Department, or has willfully deceived or dealt unjustly with the citizens of this State."

After a thorough review of the record, carefully considering the recommendation of the parties, and pursuant to my findings of fact, I hereby conclude as a matter of law, that Kinder has violated S.C. Code Ann. § 38-43-106(D) (Supp. 1999) and that I can now revoke her resident insurance agent's license. However, under the discretionary authority provided to me within S.C. Code Ann. § 38-43-130 and 25A SC Code Ann. Reg. 69-50 §VIII (Supp. 1999), I hereby impose against Kinder an administrative fine in the total amount of $250. Kinder must pay the required CE fee and that fine within ten days of the date of my signature upon this consent order. If she does not timely pay that total fine amount, or if she does not provide proof of her having timely paid the CE fee, her resident insurance agent's license will be revoked without any further disciplinary proceedings.

Lucian S. Kinder

The parties have reached this agreement in consideration of the Department having never taken any administrative disciplinary action against Kinder on this issue before and of her assurance that in the future she will comply with the state's insurance laws, particularly that of timely paying the CE fee. The parties expressly agree and understand Kinder's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter.

By her signature upon this consent order, Kinder acknowledges that she understands that this administrative order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq*. (1991 and Supp. 1999). Nothing contained within this administrative order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained within this administrative order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement officer or judicial officer. Nothing contained within this administrative order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (Supp. 1999), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which she considers necessary to report."

It is, therefore, ordered that Lucian S. Kinder shall, within ten days of the date of my signature on this consent order, pay through the Department an administrative fine in the total amount of $250, pay to the CE Administrator the CE fee required, and provide the Department proof of her payment by that date.

It is further ordered that a copy of this consent order be immediately transmitted to the National Association of Insurance Commissioners for distribution to its member states and a copy be placed in Kinder's licensing file.

This consent order becomes effective as of the date of my signature below.

Ernst N. Csiszar
Director

Date 8-1, 2000, at
Columbia, South Carolina

I CONSENT:

Lucian S. Kinder
221 Broad Street
Sumter, South Carolina 29150

Dated this 1 day of August, 2000