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STATE OF SOUTH CAROLINA
DEPARTMENT OF INSURANCE

Before the State of South Carolina
Department of Insurance

In the matter of:

James McMackin, Jr.

P. O. Box 1131
Clover, South Carolina 29710

File Number 103173

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 James McMackin, a licensed South Carolina resident insurance agent.

James McMackin admits, and I hereby find as fact, that he failed to timely pay the continuing education fee (the CE fee) required by of S.C. Code Ann. § 38-43-106(D) (Supp.1999). This act can ultimately lead to the revocation of McMackin'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 him, McMackin 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 McMackin's insurance agent's license, he would waive his 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 McMackin has violated S.C. Code Ann. § 38-43-106(D) (Supp. 1999) and that I can now revoke his 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 McMackin an administrative fine in the total amount of $250. McMackin must pay the required CE fee and that fine within ten days of the date of my signature upon this consent order. If he does not timely pay that total fine amount, or if he does not provide proof of his having timely paid the CE fee, his resident agent's license will be revoked without any further disciplinary proceedings.

James McMackin

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

By his signature upon this consent order, McMackin acknowledges that he understands 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 he considers necessary to report."

It is, therefore, ordered that James McMackin, 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 his 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 McMackin's licensing file.

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

Ernst N. Csiszar
Director

Date 9-5-, 2000, at
Columbia, South Carolina

I CONSENT: James McMackin
James McMackin
P. O. Box 1131
Clover, South Carolina 29710

Dated this 1st day of September, 2000