Before the State of South Carolina
Department of Insurance

In the matter of:	)	File Number 105946
	)	
Tammy C. Barnhill	)	Consent Order
188 Midland Parkway #218	)	Imposing Administrative Penalty
Summerville, South Carolina 29485	)	
	)	

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

Barnhill admits, and I hereby find as fact, that she, while working for Robert Harrell Insurance Agency, failed to forward $3899.40 in premiums received from various consumers to State Farm. She has since paid $ 250 leaving a balance owed to State Farm of $3649.40.These acts of "willfully deceiving or dealing unjustly with the citizens of this state by failing to transmit promptly or pay all or a portion of the amount of an insurance premium when an agent or one of his employees has received payment from a customer or insured or someone on his behalf of when it has been financed by an agent" is a violation of S.C. Code Ann. §38-43-130(3) and can ultimately lead to the revocation of Barnhill's license to transact the business of insurance as an agent in South Carolina following a public hearing at the Administrative Law Division pursuant to S.C. Code Ann. § 38-43-130 (Supp. 2000).

Prior to proceeding to a formal public hearing before the Administrative Law Judge Division, Barnhill and the Department agreed to submit the entire matter to me, along with their specific recommendation, for my summary decision. The consensual recommendation was that, in lieu of the Department seeking to revoke Barnhill's insurance agent's license, she would waive her right to a public hearing and agree to repay State Farm the sum of $3649.40 and pay an administrative fine in the total amount of $525.

Section 38-43-130 of the South Carolina Code provides that the Director of Insurance "may revoke...an [insurance] agent's license...when it appears that an [insurance] 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." Subsection (3) of that section goes on to define "deceived or dealt unjustly with the citizens of this State" to include "failing to transmit promptly or pay all or a portion of the amount of an insurance premium when the agent or one of his employees has received payment from a customer or insured or someone on his behalf or when it has been financed by the agent".

After a thorough review of the record, carefully considering the recommendations of the parties, and pursuant to my findings of fact, I hereby conclude as a matter of law, that Barnhill has failed to forward to State Farm insurance premiums totaling $3649.40 which she had received from various customers while working for the Robert Harrell insurance Agency in violation of S.C. Code Ann. §38-43-130 (Supp. 2000) 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 (Supp. 2000) I hereby impose against Barnhill an administrative fine to the Department in the total amount of $525 to be paid in three equal payments of $175 each, commencing on December 1, 2001 and on the first day of each month thereafter until paid in full. In addition Barnhill must repay State Farm the total amount of $3649.40 representing the balance of the insurance premiums she had collected and failed to transmit to that insurer. Said amount is to be paid to State Farm in twenty equal payments of $175 and one final payment of $149.40. Said payments to State Farm shall commence on March 1, 2002 and continue on the first day of each month thereafter until paid in full. If Barnhill fails to make the payments in the time and manner prescribed herein her resident insurance agent's license will be revoked without any further disciplinary proceedings and she will have no further rights of appeal or redress as a result of such action by the Department.

The parties have reached this agreement in consideration of the Department having never taken any administrative disciplinary action against Barnhill on this issue before and of her assurance that in the future she will not act in any manner that would be in violation f the state's insurance laws. The parties expressly agree and understand that Barnhill's payment of the agreed upon penalty and repayment of insurance premiums to State Farm constitutes full accord and satisfaction of this matter.

By her signature upon this consent order, Barnhill 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. 2000). Nothing contained within this administrative disciplinary 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 disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (4) (Supp. 2000), 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 law relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that Tammy C. Barnhill shall pay to the South Carolina Department of Insurance an administrative fine in the total amount of $525 and repay State Farm insurance premiums totaling $3649.40 in accordance with the terms and conditions set forth herein.

It is further ordered that a copy of this order be transmitted to the National Association of Insurance Commissioners for distribution to its current member.

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

Ernst N. Csiszar
Director

Dated this ~~3rd~~ 10th day ~~November~~ December, 2001

Columbia, South Carolina

I CONSENT:

Tammy C Barnhill

Tammy C. Barnhill
188 Midland Parkway #218
Summervilie, South 29485

Dated this 3rd day of ~~November~~ December, 2001