Before the State of South Carolina
Department of Insurance

In the matter of:	)	
	)	SCDI File Number 110754
Richard P. Kinard	)	
	)	**Consent Order**
27 Pelham Place	)	**Imposing Administrative Penalty**
Barnwell, South Carolina 29812	)	
	)	

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Richard P. Kinard a licensed South Carolina resident insurance agent.

Upon review of this matter, I hereby find as fact, that Kinard failed to timely pay the year 1998-2000 continuing education fee (the CE fee) required by S.C. Code Ann. § 38-43-106(D) (Supp.2000) and Reg. 69-50 § VIII. Kinard acknowledges that he did not pay the required fee on or before the May 1, 2000 deadline. However, Kinard contends his failure to pay the fee resulted from inadvertence and oversight and not from any intent to avoid the requirements of the law. He further contends that he attempted to pay the fee before the Department initiated any administrative action against him. Nevertheless, Kinard's failure to meet the administrative deadline is an act which can ultimately lead to the revocation of his 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.2000).

Prior to the initiation of any administrative proceedings by the Department against him, Kinard 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 Kinard's resident insurance agent license, he would waive his right to a public hearing and immediately pay 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, and pursuant to my findings of fact, I hereby conclude as a matter of law that Kinard has not complied with S.C. Code Ann. § 38-43-106(D) and 25A S.C. Code Ann. Reg. 69-50 §VIII (Supp. 2000). As a result, I can now take administrative disciplinary

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DEPARTMENT OF INSURANCE

RPK Richard P. Kinard

action against his resident insurance agent license. However, under the discretionary authority provided to me within S.C. Code Ann. § 38-43-130 (Supp. 2000), and after carefully considering the recommendations of the parties, I hereby impose against Kinard an administrative fine in the total amount of $250. Kinard must pay 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 insurance agent license will be immediately revoked without any further disciplinary proceedings.

The parties have reached this agreement in consideration of the Department having never taken any administrative disciplinary action against Kinard on this issue before, of Kinard's good faith attempt to comply with the CE fee payment provisions after the due date and before regulatory notice of noncompliance, 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 Kinard's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter.

By his signature upon this consent order, Kinard acknowledges that he 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 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 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." S.C. Code Ann. § 38-3-110 (Supp. 2000).

It is, therefore, ordered that Richard P. Kinard 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.

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 Kinard's licensing file.

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

Ernst N. Csiszar
Director

Nov 26, 2001at
Columbia, South Carolina

RPK Richard P. Kinard

I CONSENT:

Richard P. Kinard
27 Pelham Place
Barnwell, South Carolina 29812

Dated this 20TH day of NOVEMBER, 2001