Before the State of South Carolina
Department of Insurance

In the matter of:	)	
	)	
Donald Lusk ,	)	
	)	Consent Order
164 Rendant Avenue	)	Imposing Administrative Penalty
Savannah, Georgia 31419 .	)	And Reinstating License
_____	)	

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and Donald Lusk, a former South Carolina non-resident insurance agent.

Upon review of this matter, I hereby find as fact, that Lusk failed to timely pay the year 1999-2000 continuing education fee (the CE fee) required by S.C. Code Ann. § 38-43-106(D) (Supp.2000) and Reg. 69-50 § VIII. Lusk acknowledges that he did not pay the required fee on or before the May 1, 2000 deadline. However, Lusk 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, Lusk's failure to meet the administrative deadline has led to the cancellation of his license to transact the business of insurance as an agent in South Carolina.

Since then Lusk has expressed a desire to his license. He 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 the Department would reinstate Lusk's resident insurance agent license upon proof of his payment of the CE fee to the CE Administrator and an administrative penalty in the total amount of $250 to the Department.

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 Lusk 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, the administrative action previously taken against his resident insurance agent license was proper. However, under the discretionary authority provided to me within S.C. Code Ann. § 38-43-130 (Supp. 2000), and after carefully considering the recommendation of the parties, I hereby impose against Lusk an administrative penalty in the total

amount of $250. If Lusk pays that penalty within ten days of the date of my signature upon this consent order, and if he also provides proof of his having paid the CE fee, the Department will reinstate his resident insurance agent license.

The parties have reached this agreement in consideration of the Department having never taken any administrative disciplinary action against Lusk before, of Lusk'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 Lusk's payment of the agreed-upon penalty constitutes full accord and satisfaction of this matter.

By his signature upon this consent order, Lusk 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, pursuant to S.C. Code Ann. § 38-3-110 (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 laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that Donald Lusk shall, within ten days of the date of my signature on this consent order, pay to the Department an administrative penalty 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 Lusk's licensing file.

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

Ernst N. Csiszar
Director

May 18, 2001, at
Columbia, South Carolina

Donald Lusk

I CONSENT:

Donald Lusk
164 Rendant Avenue
Savannah, Georgia 31419

Dated this 14 day of May, 2001