

BEFORE THE INSURANCE COMMISSIONER  
FOR THE STATE OF ARKANSAS

IN THE MATTER OF  
TRACY EUGENE WHITE  
LICENSE NO. 238915

A.I.D. NO. 2008- 072

CONSENT ORDER

On this day, Julie Benafield Bowman, Arkansas Insurance Commissioner (Commissioner),  
And Tracy Eugene White (Respondent) agree to enter this Consent Order for the  
reasons stated below. The Respondent neither admits nor denies the Findings of Fact or  
Conclusions of Law set forth below. The Department was represented by Robert Alexander,  
Associate Counsel, in this matter. From the facts and laws before the Commissioner, she finds:

FINDINGS OF FACT

1. The Commissioner has jurisdiction over the parties and subject matter pursuant to Ark. Code Ann. §23-61-103 and the authority to issue summary license suspensions and/or order payment of penalties under Ark. Code Ann. §§ 23-60-108, 23-64-216(e), 23-64-512(a), and 23-66-408.
2. Respondent is licensed as a resident producer and holds producer license #238915.
3. Respondent received a check from Mr. John Rutherford in the amount of \$10,000 for liability insurance coverage for Mr. Rutherford's business, Superplay, Inc. The check was deposited into Respondent's agency account. Respondent failed to obtain the

requested insurance coverage or properly remit the funds to the appropriate insurer or properly refund the money to Mr. Rutherford.

4. Respondent provided Mr. Rutherford with a Certificate of Insurance dated February 15, 2006 indicating that liability insurance coverage had been issued by National Fire and Marine Insurance Company covering Superplay, Inc. This was not a valid Certificate of Insurance.

5. Respondent provided Mr. Rutherford a second Certificate of Insurance dated June 15, 2006 indicating that liability insurance coverage had been issued by National Fire and Marine Insurance Company covering Superplay, Inc. This also was not a valid Certificate of Insurance.

#### VIOLATIONS

Respondent is in violation of:

6. Ark. Code Ann. § 23-64-216(a)(2)(B) which provides that a license may be suspended or revoked for violation or noncompliance with any applicable provision of the laws of this State, this Code, or of any lawful rule, regulation, or order of the Commissioner.

7. Ark. Code Ann. § 23-64-216(a)(2)(D) which provides that a license may be suspended or revoked for improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business.

8. Ark. Code Ann. § 23-64-216(a)(2)(H) which provides that a license may be suspended or revoked for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

9. Ark. Code Ann. § 23-64-512(a)(4) which provides that a license may be

suspended or revoked for improperly withholding, misappropriating, or converting any moneys or properties received in the course of doing insurance business.

10. Ark. Code Ann. § 23-64-223, which provides that all funds, fees, moneys, premiums, or return premiums received by a licensee in the capacity as a licensee shall be trust funds so received by the licensee in a fiduciary capacity, and the licensee shall in the applicable regular course of business account for and pay these funds, fees, moneys, premiums, or return premiums to the insured, insurer, licensee, or any other person entitled thereto.

#### CONCLUSIONS OF LAW

11. For the above actions, Respondent is in violation of Ark. Code Ann.

§§ 23-64-216(a)(2)(B),(D) and (H), 23-64-512(a)(2)(4) and (8), and 23-64-223.

12. That the Respondent's license could be revoked for the violations of the Arkansas Insurance Code. However, pursuant to Ark. Code Ann. §23-64-216(h), the imposition of this sanction can be suspended during which time the Respondent's license can be placed in probationary status.

THEREFORE, it is hereby ORDERED AND AGREED that:

All licenses issued by the Department to Tracy Eugene White are hereby placed in probationary status for a period of one year. During the pendency of this probationary period, the Respondent shall be able to conduct all aspects of the business of insurance in the State of Arkansas for which he is licensed, including but not limited to, accepting remuneration in the form of commissions, so long as he operates in compliance with all applicable insurance laws

and regulations. However, if the Respondent violates any provisions of the Arkansas Insurance Code or any rules or orders issued by the Commissioner, the revocation of Respondent's license may be imposed.

IT IS SO ORDERED THIS <sup>30th</sup>~~18th~~ day of September, 2008.



TRACY EUGENE WHITE



JULIE BENAFIELD BOWMAN  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS