

**BEFORE THE INSURANCE COMMISSIONER  
FOR THE STATE OF ARKANSAS**

**IN THE MATTER OF  
DAVID RYAN DONLEY  
LICENSE NO. 227806**

**A.I.D. NO. 2009- 048**

**CONSENT ORDER**

On this day, the matter of David Ryan Donley (“Respondent”) came before Jay Bradford, Arkansas Insurance Commissioner (“Commissioner”). The Arkansas Insurance Department (“Department”) is represented by Chief Counsel, Booth Rand, in this matter. The Respondent is represented by Mr. John Ogles, ESQ. The Respondent neither admits nor denies any of the Findings of Fact or the Conclusions of Law contained herein. From the facts and law before him, the Commissioner finds as follows:

**FINDINGS OF FACT**

1. The Commissioner has jurisdiction over the parties and the subject matter pursuant to Ark. Code Ann. § 23-61-103.
2. The Respondent holds an Arkansas resident producer license number #227806 and operates an insurance agency, Donley & Associates Insurance, located in North Little Rock, Arkansas 72190.
3. On or about September of 2008, a regulatory complaint (“Complaint”) was filed at the Department against Respondent by a Mr. Steve Perry of APS Insurance LLC (“APS”). From 2003 until the summer of 2008, the Respondent was manager of the APS insurance agency business. In June of 2008, the Respondent resigned from APS and thereafter started his own insurance agency. The basis of the Complaint centered around two areas: (1) The Complaint alleged that Respondent illegally misappropriated or transferred to himself APS customer information and proprietary information from APS; and (2) the Respondent improperly and fictitiously signed or forged a variety of insurance documents. During the course of the

Department's investigation of the Complaint, the Department discovered twenty-two (22) instances of actions during the course of time in which Respondent worked for APS as a manager, in which Respondent super-imposed a signature of an insured in order to complete or update required insurance forms for customers. These forms included several homeowner's insurance applications, homeowner's insurance cancellations, accord forms, automobile uninsured/underinsurance options and earthquake coverage declinations.

4. The Respondent maintains that his super-imposition of customer signatures was not an ordinary practice of his business and that these were only done occasionally for the convenience to the customer and that the customers had authorized or at least ratified the super-imposed signatures, usually over the phone with Respondent, in contemporaneous contact with the Respondent, or sometime thereafter. Although subsequent contact with the consumers by the Department after this Complaint was filed did indicate that some, but not all, of the customers did not object to the super-imposed signature, the Department was unable to locate in any of the insured's files a written power of attorney or other written document from each of these customers which provided Respondent with permission for such actions, nor was there any documentation in each file reflecting contact was made with the customer before, during or after the super-imposed signature indicating that the customer was ratifying or approving this process of signature for them.

5. On or about March 9, 2009, the Department scheduled an administrative hearing over the Complaint to take place on April 8, 2009, at 1:00 P.M. in the First Floor Hearing Room of the Department. On the date of the hearing, and, in lieu of a hearing, the Department and Respondent agreed to a set of disciplinary penalties for Respondent which is set out in this Consent Order. These penalties only relate to and are derived from Respondent's activities in improperly using a super-imposed signature of a customer. The Department defers to the parties

or courts to resolve the propriety of Respondent's use of the Complainant's business or customer information.

6. Respondent has knowingly and voluntarily waived his right to an administrative hearing and has had the benefit of his own legal counsel in this matter.

### **CONCLUSIONS OF LAW**

From the Findings of Fact contained herein, the Commissioner concludes as follows:

1. Forging another's name to an application for insurance or any other insurance-related document is grounds for probation, suspension, or revocation of an insurance producer's license pursuant to Ark. Code Ann. § 23-64-512(a)(10). This includes an agent's or producer's super-imposition of a previous signature of an insured where the insured has not previously or contemporaneously provided the producer with any valid legal authority or authorization for the action.

### **IT IS THEREFORE ORDERED:**

1. Respondent's resident producer license shall be, and hereby is, placed in suspension for thirty (30) days from June 1, 2009 until and including June 30, 2009. The suspension shall be as to new insurance business and shall not include renewals.

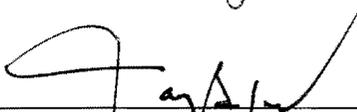
2. Respondent shall be and is hereby placed on probation for one (1) year from the date Respondent receives this Order which is signed by all of the required parties.

3. Respondent shall pay a fine of one-hundred dollars (\$100) to the Department not later than one hundred twenty (120) days from the date of this order for each super-imposed signature in which there exists no documentation or evidence from the customer permitting, authorizing or ratifying such action prior to, or contemporaneously, with the action.

4. In addition to the one hour of ethics training required annually pursuant to Ark. Code Ann. § 23-64-301(b)(3), the Respondent shall complete an additional eight (8) hours of ethics training before January 1, 2011.

5. Respondent shall within forty-five (45) days of receipt of this Order, develop written office standards and internal policies which will help ensure that processes required to provide accurate and timely handling of insurance transactions for consumers are in place. This manual shall be comprehensive and address all the various processes required in the day-to-day operation of an insurance agency. The Respondent shall file such standards with the Department for the Department to review. The Respondent and his agency shall thereafter be audited by the Department in December of 2009, utilizing to some extent the procedures outlined in the manual in order to determine whether Respondent has engaged in any improper activities.

IT IS SO ORDERED this 7<sup>th</sup> day of May, 2009.

  
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JAY BRADFORD  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS

  
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DAVID RYAN DONLEY  
RESPONDENT