

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of **Scott J. Lyda.**

) **STIPULATION** and
) **FINAL ORDER**
) Case No. INS 99-05-012

STIPULATION

The Director of the Department of Consumer and Business Services (Director) commences the above entitled administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256(1), to take action against Scott J. Lyda (Lyda) for violating, not complying with or otherwise being subject to, certain provisions of the Oregon Insurance Code or related administrative rules.

Lyda enters into this stipulation to conclude this proceeding without further administrative or judicial proceedings pursuant to ORS 183.415(5).

Lyda waives all rights pursuant to the Oregon Administrative Procedures Act, ORS Chapter 183, including but not limited to the right to receive a notice of proposed action and a notice of rights and procedures in contested cases, to have a hearing, and to be represented by an attorney at the hearing pursuant to ORS 183.413 and 183.415, to receive a final order pursuant to ORS 183.470, and to judicial review of the final order pursuant to ORS 183.480 and 183.482.

Lyda admits and agrees to the following:

Facts

Licensing

Lyda has been licensed in Oregon as a resident individual insurance agent since April 23, 1993. Lyda's license number is 603524. Lyda conducts business at 10260 SW Greenburg Road, Portland, OR 97223.

Failure to Perform Duties in Life Insurance Replacement Transaction

On February 27, 1998, Lyda solicited and received from Jim L. Kirby (Kirby) and Roger L. Britton (Britton), both of Salem, Oregon and business partners, each

an application for a life insurance policy to be issued by United of Omaha Life Insurance Company (UOLIC). Lyda knew that each applicant intended to terminate an existing life insurance policy if the applicant purchased the proposed life insurance policy. However, in each case, Lyda failed to (1) present to the applicant an "Important Notice to Applicant Regarding Replacement of Life Insurance or Annuity," (2) have the applicant and Lyda sign and date the replacement notice, (3) obtain from the applicant certain information about the existing life insurance policy to be replaced, (4) leave with the applicant a copy of the signed replacement notice and replaced policy information, and (5) send such notice and information along with the application to UOLIC.

Ultimate Facts

Lyda failed to perform the duties of an agent in a transaction involving the replacement of a life insurance policy or annuity as required by Oregon Administrative Rules (OAR) 836-080-025(2).

Conclusions

Lyda violated OAR 836-080-025(2).

Action

Lyda shall pay a civil penalty of \$2,000 pursuant to ORS 731.988. Payment shall be made in the form of a check payable to the "Department of Consumer and Business Services" for the full amount due. Payment shall be personally delivered or mailed to the Insurance Division so that it is received on or before the date of this order.

Dated June June 2, 1999.

/s/ Scott J. Lyda
Scott J. Lyda

FINAL ORDER

The Director adopts, and incorporates herein by this reference, the Facts, Ultimate Facts, Conclusions and Action in the above Stipulation as the Findings of Fact, Ultimate Findings of Fact, Conclusions of Law and Order, respectively, of this Final Order.

Dated June 14, 1999.

/s/ Michael Greenfield
Michael Greenfield
Director
Department of Consumer and Business Services