

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of **Frank K. Shafer.**

) **STIPULATION** and
) **FINAL ORDER**
) Case No. INS 00-01-016
) File No. 1997 IV

STIPULATION

The Director of the Department of Consumer and Business Services (Director) commenced the above entitled administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256(1), for the purpose of taking action against Frank K. Shafer (Shafer) for violating certain provisions of the Oregon Insurance Code.

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

Shafer has received a notice of proposed action and hearing and a notice of rights and procedures in contested cases and has requested a hearing which has been scheduled. Shafer waives any objections relative to such notices. Shafer also waives the right to hold the scheduled hearing and to be represented by an attorney at the hearing, and to judicial review of the final order.

Shafer admits and agrees to the following:

Facts

Licensing

Shafer has been licensed in Oregon as a resident individual insurance agent since March 9, 1988. Shafer's license number is 119356. Shafer resides at 510 N. Hayden Bay Drive, Portland, OR 97217.

Misrepresentation - Van Dyck Transaction

On or about March 1, 1996, Shafer solicited from Warren Van Dyck (Van Dyck) of Portland, Oregon, an application for life insurance to be provided by Life of Boston Insurance Company (LBIC). Shafer asked Van Dyck question 3.1 on the application that asked "In the past 2 years, has any proposed insured had, been taking medication for, been treated for or diagnosed by a physician has having: 1. ...

emphysema?" As Van Dyck was about to answer the question "Yes," Shafer told Van Dyck something to the effect that "do not saying anything, I do not want to hear about it." Shafer then marked on the application the answer "No" to question 3.1. Shafer submitted the application to LBIC. On March 4, 1996, LBIC received the application and paid Shafer a commission of \$158.59. On or about March 7, 1996, LBIC issued to Van Dyck the life insurance policy applied for and mailed it to Van Dyck. Shortly before March 18, 1996, Van Dyck wrote a letter to LBIC informing it what had happened. On or about March 18, 1996, LBIC received Van Dyck's letter. On or about March 25, 1996, LBIC rescinded the policy and refunded to Van Dyck all premiums paid for the insurance.

Misrepresentation - Turner Transaction

On or about July 23, 1997, Shafer submitted to Standard Life and Accident Insurance Company (SLAICO) a life insurance application dated June 29, 1997 purportedly from Irene J. Turner (Turner) of Portland, Oregon in which Shafer misrepresented to SLAICO that he the saw the applicant, asked the applicant the questions in the application, recorded the applicant's answers to the questions and witnessed the applicant sign the application when in fact Shafer did not see the applicant but only the applicant's daughter. Shafer continued to misrepresent to SLAICO that Shafer saw the applicant when he completed the application in a statement to SLAICO dated October 6, 1997, in a telephone conversation to SLAICO on February 9, 1998, and in a letter to SLAICO dated February 16, 1998. Shafer did not tell SLAICO the truth until April 15, 1998 when he finally stated in an affidavit that he did not see the applicant.

Misrepresentation - Harris Transaction

On or about August 26, 1997, Shafer solicited from Alpha "Al" H. Harris (A. Harris) and Evelyn M. Harris (E. Harris), husband and wife, of Portland, Oregon, an application for life insurance to be provided by LBIC. A. Harris told Shafer that he could not read or write. Shafer told A. and E. Harris that Shafer would complete the application and they could sign their names on the application. Shafer asked E. Harris question 11a on the application that asked "In the past 2 years, has any

proposed insured ever had, taken medication for, been treated for: a) ... lung disease ...?" E. Harris told Shafer that she had emphysema. Shafer told A. and E. Harris something to the effect "don't worry about it, it isn't listed on the form" and "if anyone calls and asks about lung disease just say 'no' because emphysema isn't the same as lung disease." LBIC's underwriting guidelines for agents at the time stated that "Lung disease includes but is not limited to emphysema." Shafer had a copy of these guidelines at the time. Shafer then marked on the application the answer "No" to question 11a. Shafer submitted the application to LBIC. On or about September 2, 1997, LBIC received the application. On or about September 5, 1997, LBIC issued to the Harris' the life insurance policy applied for and mailed it to them. On March 7, 1998, E. Harris died of emphysema. A. Harris submitted to LBIC a claim for the death benefit under the policy. On or about April 14, 1998, LBIC denied the claim due to misinformation on the application about E. Harris' health and refunded to A. Harris all premiums paid for the insurance.

Ultimate Facts

Shafer made a misrepresentation on or relative to an application for insurance in three instances.

Conclusions

Shafer violated ORS 746.100 in three instances.

Agreement

In consideration of the Director not taking any action against Shafer, Shafer agrees to the following:

Shafer will voluntarily surrender his Oregon insurance agent license on or before the date of this order.

Shafer will not apply to the Director for any license as an insurance agent, consultant or adjuster to be issued to either himself or to any business organization owned or operated by him. Shafer also agrees not to own any equity interest in, or be an officer, director or employee of, any business organization licensed as an insurance agent, consultant or adjuster in Oregon.

Action

In consideration of Shafer's agreement, the Director will not take any action against Shafer in this matter.

Dated April 25, 2000.

/s/ Frank K. Shafer
Frank K. Shafer

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 April 27, 2000.

/s/ Mary C. Neidig
Mary C. Neidig
Acting Director
Department of Consumer and Business Services

CERTIFICATE OF SERVICE

I certify that on April 27, 2000 I served the above Stipulation and Final Order by mailing a copy thereof in a sealed envelope, with first class postage prepaid, to the party named therein.

/s/ Mitchel D. Curzon
Mitchel D. Curzon
Administrative Law Specialist
Insurance Division