

**STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION**

In the Matter of **Gary G. Bergeson** and
Hansen-McDonald Insurance.

) **STIPULATION** and
) **FINAL ORDER**
) Case No. INS 00-12-003
) File No. 2325 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, to take disciplinary action against Gary G. Bergeson (Bergeson) and Hansen-McDonald Insurance (HMI) for violating the Oregon Insurance Code.

Bergeson and HMI each enter into this stipulation, pursuant to ORS 183.415(5) and Oregon Administrative Rules (OAR) 137-003-0510(3)-(4), to conclude this proceeding without further administrative or judicial proceedings. Bergeson represents by signing herein that he has the authority to sign this stipulation on behalf of HMI.

Bergeson and HMI each have received a notice of proposed action and waive any objections to such notice. Bergeson and HMI have not requested a hearing. Bergeson and HMI each waive the rights to receive a notice of rights and notice of judicial review, to have a hearing, to be represented by an attorney at the hearing, and to judicial review of the final order.

Bergeson and HMI each admit and agree to the following facts, conclusions and action.

Facts

Licensing

Bergeson has been licensed in Oregon as a nonresident individual agent from 6/27/86 to 10/6/89, from 10/24/89 to 10/31/90, from 4/29/91 to 10/31/00 and since 11/8/00. Bergeson's license number is 120341. Bergeson's residence address is

16416 NE 28th Avenue, Ridgefield, WA 98642 and telephone number is 206-574-2894. Bergeson's business address and telephone number are the same as HMI's.

HMI has been licensed in Oregon as a nonresident firm or corporate agent from 7/12/94 to 7/31/99 and since 8/19/99. HMI's license number is 806680. HMI is a Washington sole proprietorship. Bergeson is the proprietor of and an individual licensee employed by HMI. HMI's business street and mailing address is 9014 NE St Johns Road Suite 112, Vancouver, WA 98665 and telephone number is 360-574-7424.

Failure to Notify Director of Business Address Change

In or about 1/99, Bergeson changed the address of his principal place of insurance business from 9901 NE 7th Avenue, Vancouver, WA 98685 to 9014 NE St Johns Road Suite 112, Vancouver, WA 98662. Bergeson did not notify the Insurance Division of such change until on or about 11/8/00, 647 days later.

Illegal Withholding of Insurance Premium and Failure to Deposit Insurance Premium into Trust Account

On or about 9/28/99, Bergeson received from Ronald N. Lawrence (Lawrence) of Newberg, Oregon an application for automobile insurance to be provided by IGF Insurance Company (IGF). On or about 9/29/99, Bergeson received from Berco Finance Corporation dba Auto Acceptance (Berco), on behalf of Lawrence, a check, number 10181, dated 9/29/99, made payable to "Hanson & McDonald" in the amount of \$142 as payment of part of the premium due for the insurance applied for. Bergeson placed the check in a file. Bergeson did not deposit the check into a trust account or remit the check or the proceeds of the check to IGF. On or about 3/14/00, 168 days later, Bergeson returned the check to Berco.

On or about 6/6/00, Bergeson received from Bon E. Koo (Koo) of Portland, Oregon an application for automobile insurance to be provided by Progressive Northern Insurance Company (Progressive Northern). On the same date, Bergeson received from Ta Ho Koo, Koo's father, on behalf of Koo, a check, number 0375, dated 6/6/00, made payable to "Hansen - McDonald" in the amount of \$405 as payment of part of the premium due for the insurance applied for. Bergeson placed the check in a file.

Bergeson did not deposit the check into a trust account or remit the check or the proceeds of the check to Progressive Northern. On or about 9/27/00, 113 days later, Bergeson returned the check to Koo.

On or about 6/26/00, Bergeson received from Nadara J. Soules (Soules) of Clackamas, Oregon an application for automobile insurance to be provided by IGF. On the same date, Bergeson received from Soules, a check, number 1626, dated 6/26/00, made payable to "Hansen - McDonald" in the amount of \$192 as payment of part of the premium due for the insurance applied for. Bergeson placed the check in a file. Bergeson did not deposit the check into a trust account or remit the check or the proceeds of the check to IGF. On or about 10/6/00, 122 days later, Bergeson returned the check to Soules.

Misrepresentation to Insurer

On or about 3/26/00, Bergeson received from Kimberly R. Lee-Samelko (Samelko) of Portland, Oregon an application for automobile insurance to be provided by IGF. Bergeson indicated on the application that he personally inspected Samelko's automobile. This representation was false and Bergeson knew it was false because Bergeson did not personally inspect the automobile.

Misrepresentation to Insured

Bergeson issued to Soules three insurance identification cards on separate occasions on or about 6/26/00, 7/26/00 and 9/26/00. Each identification card represented to Soules that she was insured under one or more automobile insurance policies issued by IGF from 6/26/00 to 3/26/01. These representations were false and Bergeson knew or should have known that they were false because (1) Bergeson knew that IGF did not issue any policy insuring Soules because he had not sent to IGF the original application and premium that Bergeson received on 6/26/00; (2) Bergeson had not received from Soules any additional premium to pay for insurance beyond mid 8/00; (3) Bergeson did not check his records to verify whether Soules was insured for each additional period for which he issued a card; and (4) Bergeson created the policy numbers that he used on the cards.

Ultimate Facts and Conclusions

Bergeson violated ORS 744.013(2)(d) in three instances by illegally withholding money that he received from an applicant relative to an insurance transaction.

Bergeson violated ORS 744.013(2)(f) in three instances by making a material misrepresentation as to the terms of an insurance policy or proposed insurance policy.

Bergeson violated ORS 731.028 in one instance by failing to notify the Director of a change of business address within 30 days of the change.

Bergeson violated ORS 744.225 in three instances by failing to deposit insurance premiums into an insurance premium trust account.

Bergeson violated ORS 746.100 in one instance by making a misrepresentation on or relative to an application for insurance.

HMI is subject to disciplinary action pursuant to ORS 744.013(3) because Bergeson violated the laws specified above and Bergeson is the owner of and an individual licensee employed by HMI.

Action

The Oregon insurance agent license issued to Bergeson shall be revoked on the date of this order pursuant to ORS 744.013(1)(a). Bergeson shall not transact insurance in Oregon, including servicing clients, on and after that date.

In consideration of the Director not assessing Bergeson a civil penalty of \$11,000 pursuant to ORS 731.988, Bergeson agrees not to 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. Bergeson 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.

The Oregon insurance agent license issued to HMI shall be revoked on the date of this order pursuant to ORS 744.013(3). HMI shall not transact insurance in Oregon, including servicing clients, on and after that date.

Dated February 19, 2001.

/s/ Gary G. Bergeson
Gary G. Bergeson

/s/ Gary G. Bergeson
Gary G. Bergeson
Sole Proprietor
Hansen-McDonald Insurance

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 February 23, 2001.

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

CERTIFICATE OF SERVICE

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

Dated February 23, 2001.

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

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