

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

In the Matter of **Myra J. Harkins**, and) **STIPULATION** and
Roy Harkins & Son, Inc.) **FINAL ORDER**
dba Jeannie's Insurance Place.) Case No. INS 02-11-010

STIPULATION

The Director of the Department of Consumer and Business Services (director) commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take disciplinary action against Myra J. Harkins (Harkins) and Roy Harkins & Son, Inc. dba Jeannie's Insurance Place (JIP).

Harkins and JIP each enter into this Stipulation, pursuant to ORS 183.415(5), to conclude this proceeding without further administrative or judicial proceedings.

Harkins and JIP each waive the right to receive a Notice of Proposed Action, to receive a notice of the rights of a party and procedures in contested cases, to have a hearing, to be represented by an attorney at the hearing, and to judicial review of the Final Order.

Harkins and JIP each admit and agree to the following facts, conclusions, and action.

Facts and Conclusions

Licensing

Harkins has been licensed in Oregon as a resident insurance agent since 10/3/90. Harkins' current license number is 115565.

JIP has been licensed in Oregon as a resident insurance agent since 12/30/97. JIP's current license number is 809678.

Misappropriation of Insurance Premium and Withholding of Application

Harkins violated ORS 744.013(2)(d) (1999) in two instances by engaging in the following conduct.

1. On 2/24/00, Harkins completed, and received from Charles E. Gilmore (Gilmore), of Winston, Oregon, an application for homeowners insurance to be

provided by Metropolitan Property and Casualty Insurance Company (Met P&C). Harkins also received from Gilmore \$57 in cash as payment of part of the \$226 annual premium for the insurance. Harkins was required by Met P&C to submit the application and premium to the insurer within ten days of receipt. On or about 10/1/01, Harkins sent the application to Met P&C. On or about 10/11/01, 595 days after Harkins received the application, Met P&C received the application. Harkins did not send any money to Met P&C, or return the money to Gilmore.

2. On 10/27/00, Harkins completed, and received from Gilmore an application for automobile insurance to be provided by Metropolitan General Insurance Company (MetGen). Harkins also received from Gilmore \$56 in cash as payment of part of the estimated \$222 semi-annual premium for the insurance. Harkins was required by MetGen to submit the application and premium to the insurer within ten days of receipt. On or about 10/1/01, Harkins mailed to MetGen an application that was different than the application that Harkins completed, and received from Gilmore. The application was different because Harkins had changed certain information including changing the effective date of the insurance from 10/27/00 to 4/27/00, adding physical damage coverage, increasing liability coverage, and altering the date that Gilmore signed the application from 10/27/01 to 4/27/01. The changes in coverage in part caused the estimated semi-annual premium to increase from \$222 to \$402, and the required down payment to increased from \$56 to \$101. Harkins included with the application a check, number 1659, dated 10/1/01, in the amount of \$101.00. The check was drawn on JIP's insurance premium trust account, number 042907243, at Douglas National Bank. On 10/11/01, MetGen received the application and check. On or about the same date, MetGen mailed back to Harkins the application and check, and declined to provide the insurance applied for, because the application was received about a year after the effective date. Harkins did not return the money to Gilmore.

Misrepresentation on Insurance Application

Harkins violated ORS 746.100 in seven instances by engaging in the following conduct.

1. As indicated above, on 2/24/00, Harkins completed and received from Gilmore an application for homeowners insurance to be provided by Met P&C. However, sometime between 2/24/00 and 10/1/00, without the knowledge or consent of Gilmore, Harkins changed the effective date of the insurance, and the date of signing the application, from 2/24/00 to 5/24/00. Also, Harkins answered "Yes" to the question of whether Harkins, as the agent, had "inspected [the] residence?" These three representations were false and Harkins knew that they were false. On or about 10/1/01, Harkins sent the application to Met P&C. On or about 10/11/01, Met P&C received the application.

2. As indicated above, on 10/27/00, Harkins completed, and received from Gilmore, an application for automobile insurance to be provided by MetGen. However, sometime between 10/27/00 and 10/1/01, without the knowledge or consent of Gilmore, Harkins changed certain information on the application including (1) changing the effective date of the insurance from 10/27/00 to 4/27/00, (2) adding physical damage coverage, (3) increasing liability coverage, and (4) changing the date that Gilmore and Harkins signed the application from 10/27/01 to 4/27/01. These four representations were false and Harkins knew that they were false. On or about 10/1/01, Harkins mailed to MetGen the altered application. On 10/11/01, MetGen received the altered application.

Action Against Agency for Acts of Agent

JIP is subject to disciplinary action pursuant to ORS 744.013(3) (1999) because Harkins violated the laws specified above; and Harkins is an officer of, and a licensed agent employed by or contracted with, JIP.

Action

Pursuant to ORS 744.013(1) (1999), the licenses as an insurance agent issued to Harkins and JIP shall be revoked on the date of this Final Order.

In consideration of the director not assessing Harkins a civil penalty pursuant to ORS 731.988, Harkins agrees to the following. Harkins will not apply for any license authorized by ORS Chapter 744. Harkins will not own in whole or in part any business organization that is issued any license authorized by ORS Chapter

744. Harkins will not be or act as a director, officer, or employee of; an independent contractor for; or in any other capacity for or on behalf of, any individual or business organization that is issued any license authorized by ORS Chapter 744.

Dated December 20, 2002

/s/ Myra J. Harkins
Myra J. Harkins

/s/ Myra J. Harkins
Myra J. Harkins
Owner and Secretary
Roy Harkins & Son, Inc.
dba Jeannie's Insurance Place

FINAL ORDER

The director adopts, and incorporates herein by this reference, the above Stipulation as the director's final decision in this proceeding.

Dated January 10, 2003

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

//
//
//