

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

In the Matter of **Robert J. Johnson and**) **STIPULATION** and
Robert J. Johnson dba Bob Johnson) **FINAL ORDER**
Insurance Agency.) Case No. INS 03-10-021

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 enforcement action against Robert J. Johnson (Johnson), and Robert J. Johnson dba Bob Johnson Insurance Agency (Johnson Insurance).

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

Johnson and Johnson Insurance each waive the right to receive a notice of proposed action, receive a notice of the rights of a party and procedures in contested cases, have a hearing, be represented by an attorney at the hearing, receive a proposed order, file exceptions to the proposed order, and have the Final Order judicially reviewed.

Johnson and Johnson Insurance each stipulate to the following facts, conclusions, and action; and consents to issuance of a Final Order incorporating this Stipulation.

Facts and Conclusions

Licensing Information

Johnson has been licensed in Oregon as a resident insurance agent since 7/28/82. Johnson's current license number is 112132. Johnson's last recorded residence address is located in Hood River, Oregon. Johnson's last recorded business address is Bob Johnson Insurance Agency, located in Hood River, Oregon.

Johnson Insurance has been licensed in Oregon as a resident insurance agent from 11/12/92 to 11/30/93, from 1/19/94 to 11/30/95, and since 1/3/96. Johnson

Insurance was also licensed in Oregon as a resident insurance consultant from 1/3/96 to 6/29/02. Johnson Insurance's current license number is 805651. Johnson Insurance's last recorded business address is located in Hood River, Oregon.

Withheld Insurance Premium

Johnson violated ORS 744.013(2)(d) (1999) in one instance by engaging in the following conduct. ORS 744.013(2)(d) (1999) prohibits a person licensed in Oregon as an insurance agent from misappropriating, illegally withholding, or converting insurance premium belonging to the insurer, agent or other person entitled to the premium. On 8/20/01, Johnson, as an agent of Johnson Insurance, faxed to Contractors Bonding and Insurance Company (CBIC) an application by McMahon & Thornton Builders, Inc. (MTB) of Hood River, Oregon, for a general liability insurance policy and a tool policy to be issued by CBIC. Sometime between 8/31/01 and 9/5/01, Johnson received from MTB a check, dated 8/31/01, number 13986, made payable to Johnson Insurance, in the amount of \$2,566, as payment of the annual premium for the policies. On 9/5/01, Johnson deposited the check into Johnson Insurance's insurance premium trust account. On 9/13/01, CBIC issued the liability policy, number INS120797, and the tool policy, number INP120797, both effective 9/16/01. The annual gross premium for both policies was \$2,559. Johnson was obligated to forward the net premium of \$2,175.15 to CBIC by 10/20/01, and entitled to retain the balance of \$383.85 as commission. Once a month for four months from September to December 2001, Johnson received from CBIC a billing statement that indicated that the Johnson had not forwarded to CBIC the net premium for the policies issued by CBIC to MTB. Finally, on 1/7/02, CBIC sent MTB a notice that CBIC was going to cancel the policies effective on 1/23/02 due to non payment of the premium. On 1/16/02, MTB filed with the Insurance Division a complaint that Johnson had received but failed to forward MTB's premium payment to CBIC and as a result CBIC was go to cancel MTB's policies. Later the same day, the Insurance Division informed Johnson about the complaint. Later the same day, Johnson issued a check, dated 1/17/02, number 2291, made payable to CBIC, in the amount of \$2,175.15, as payment of the annual

payment of the premium for the policies. Again later the same day, but after work hours, Johnson placed the check, along with an envelope addressed to CBIC with postage prepaid, on the door to MTB's office. On 1/17/02, MTB found the check and mailed it to CBIC. On 1/18/02, CBIC received the check. CBIC credited the payment to MTB's policies and rescinded the cancellation.

Failed to Respond to Director

Johnson violated ORS 731.296 in one instance by engaging in the following conduct. ORS 731.296 requires a person licensed in Oregon as an insurance agent to promptly and truthfully respond to inquiries from the director. On 9/24/02, the Insurance Division mailed by certified mail a letter to Johnson at his last recorded residence and business address of Bob Johnson Insurance Agency, 2977 Eliot Drive, Hood River, OR 97031-9539. The letter requested Johnson to provide certain information about the MTB transaction described above to the Insurance Division by 10/24/02. On 9/26/02, Johnson received the letter. On 10/28/02, not having received any response, the Insurance Division called Johnson and informed him that the Insurance Division had not received any response to its letter. Johnson said he would mail a response the next day. On 11/5/02, still not having received any response, the Insurance Division sent a follow up letter to Johnson. On 11/6/02, Johnson received the follow up letter. The Insurance Division has not received any response from Johnson.

Agency Failed to Correct and Report Violations by Agent

Johnson Insurance is subject to enforcement action pursuant to ORS 744.013(3) (1999) because Johnson violated ORS 744.013(2)(d) as specified above; and Johnson is an owner, and a licensed agent employed by, Johnson Insurance. Johnson Insurance is also subject to enforcement action pursuant to ORS 744.074(3) because Johnson violated ORS 731.296 as specified above; such violation was known by Johnson as the owner of Johnson Insurance; and such violation was not reported to the director and corrective action was not taken by Johnson Insurance.

Action

Pursuant to ORS 744.013(1) (1999) and 744.074(1), Johnson's Oregon insurance agent license is revoked on the date of the Final Order.

Pursuant to ORS 744.013(3) (1999) and 744.074(3), Johnson Insurance's Oregon insurance agent license is revoked on the date of the Final Order.

Dated November 18, 2003

/s/ Robert J. Johnson
Robert J. Johnson

/s/ Robert J. Johnson
Robert J. Johnson
dba Bob Johnson Insurance Agency

FINAL ORDER

The director incorporates herein the above Stipulation, adopts it as the director's final decision in this proceeding, and orders that the action stated therein be taken.

Dated December 16, 2003

/s/ Cory Streisinger
Cory Streisinger
Director
Department of Consumer and Business Services

//
//
//