

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

In the Matter of **John R. Lackey**  
**dba Lackey Insurance Agency.**

) **STIPULATION** and  
) **FINAL ORDER**  
) Case No. INS 03-12-017

**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 John R. Lackey dba Lackey Insurance Agency (LIA).

LIA enters into this Stipulation, pursuant to ORS 183.415(5), to conclude this proceeding without further administrative or judicial proceedings.

LIA waives 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.

LIA stipulates to the following facts, conclusions, and action; and consents to issuance of a Final Order incorporating this Stipulation.

**Facts and Conclusions**

Licensing Information

LIA has been licensed in Oregon as a resident insurance agent since 1/28/92. LIA's current license number is 126427. LIA's last recorded business street address is located in La Grande, Oregon.

Withheld Insurance Premium

LIA violated ORS 744.225(1) (1999) and OAR 836-074-0025 each in one instance by engaging in the following conduct. *Former* ORS 744.225(1) (1999), *renumbered* as ORS 744.083(1) (2001), requires a person licensed in Oregon as an insurance agent to deposit into an insurance premium trust account all insurance premiums received by the person, and keep such premiums therein until paid to the person entitled thereto. OAR 836-074-0025 requires a person that is licensed in Oregon as

an insurance agent and in such capacity receives from an insurer unearned premium to pay unearned premium to the insured within 30 days of receiving it. On or about 8/2/01, Ralph Simonson (Simonson) of Elgin, Oregon contacted LIA and requested that his commercial automobile insurance policy, number CC36003621, issued by Cascade National Insurance Company, be cancelled. John R. Lackey (Lackey), the proprietor of and an agent affiliated with LIA, told Simonson that Lackey would calculate the unearned premium and send it to Simonson. On 9/18/01, Kenneth I. Tobey (KIT), the insurer's managing general agent, issued a check, number 219415, dated 9/18/01, in the amount of \$268.10, made payable to LIA, and mailed it to LIA. Of this amount, \$266.00 was the unearned premium owed to Simonson because of the cancellation of the policy. On 9/25/01, LIA deposited the check into its *operating* account. On 12/27/01, the Insurance Division received from Simonson a letter complaining that he had not received the unearned premium from LIA. On 12/28/01, the Insurance Division sent a letter to LIA about the complaint. On 1/2/02, LIA issued a check, number 4587, dated 1/2/02, in the amount of \$266 and mailed it to Simonson.

#### **Action**

Pursuant to ORS 731.988, LIA is assessed a civil penalty of \$1,000. The payment shall be made in the form of a check payable to the "Department of Consumer and Business Services" for the full amount due. The payment shall be delivered to the Insurance Division at 350 Winter Street NE, Room 440, Salem, OR 97301-3883, or mailed to the Insurance Division at PO Box 14480, Salem, OR 97309-0405. The payment shall be received by the Insurance Division by the date of the Final Order.

Dated January 5, 2004

/s/ John R. Lackey  
John R. Lackey  
Proprietor  
John R. Lackey dba Lackey 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 February 5, 2004

/s/ Cory Streisinger

Cory Streisinger

Director

Department of Consumer and Business Services