

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

In the Matter of **Shirley A. Varga.**) **STIPULATION** and
) **FINAL ORDER**
) Case No. INS 04-03-036

STIPULATION

The Director of the Oregon Department of Consumer and Business Services (director) commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take enforcement action against Shirley A. Varga (Varga).

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

Varga 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.

Varga stipulates to the following facts, conclusions, and action, and consents to issuance of a final order incorporating this stipulation.

Facts and Conclusions

Licensing Information

Varga has been licensed in Oregon as a resident insurance agent from 9/9/88 to 3/24/89, from 12/31/90 to 12/31/94, from 2/3/95 to 12/31/96 for only life, and since 1/31/97. Varga's current license number is 119829. Varga's last recorded residence address and business address are located in Grants Pass, Oregon.

Used Dishonest Practice in the Transaction of Insurance

Varga violated ORS 744.074(1)(h) in two instances by engaging in the following conduct. ORS 744.074(1)(h) permits the director to take any authorized enforcement action against a person licensed in Oregon as an insurance agent if the person uses a fraudulent, coercive or dishonest practice, or demonstrates

incompetence, untrustworthiness or financial irresponsibility in the conduct of business in Oregon or elsewhere.

1. On or about 11/1/02, Varga, as an agent of Gilliespie-Johnson-Stanger Insurance Agency, Inc. dba House of Insurance (House of Insurance) in Grants Pass, Oregon, personally prepared, issued and faxed an insurance binder to Premier West Bank (Premier), on behalf of Roland Theiss (Theiss) and Carl Ledengood (Ledengood). The binder indicated that Theiss and Ledengood were insured under a commercial multi-peril insurance policy, number RSS 006290, issued by Republic Western Insurance Company (Republic) for the period from 10/3/02 to 10/7/03. However, this representation was not true because on 7/23/02 Republic mailed to the insureds, and to the House of Insurance, a notice of nonrenewal to be effective on 10/7/02. Varga knew that the representation was not true because (1) on 5/9/02 "Roneta", an underwriter of Republic, told Varga that Republic would nonrenew the policy, (2) on 8/12/02 Theiss called and told Varga that he received the notice of nonrenewal mailed on 7/23/02, (3) on 8/22/02 and 10/15/02, Theiss again called Varga asking about the status of the policy, and (4) Republic never told Varga that it might reconsider or had reconsidered its previous decision to nonrenew the policy.

2. On or about 3/17/03, Varga received from Theiss a check, number 04900, dated 3/17/03, in the amount of \$1,689.00, as payment of the premium for the policy described above for the period from 10/3/02 and 10/7/03. Varga represented to Theiss that the policy was in force by accepting the check. However, this representation was not true and Varga knew that it was not true for the reasons explained above.

Withheld Insurance Premium

Varga violated ORS 744.074(1)(d) in one instance by engaging in the following conduct. ORS 744.074(1)(d) prohibits a person licensed in Oregon as an insurance agent from misappropriating, withholding, or converting premium for insurance belonging to an insurer, agent or other person entitled to the premium. On or about 3/17/03, Varga received from Theiss the check described above. On 3/18/03, Varga deposited or caused to be deposited the check into the House of Insurance' insurance

premium trust account, number 0250000767, at Liberty Bank. Varga knew that she, House of Insurance, Republic, or any other agent or insurer was entitled to the check because she knew that the policy had not been renewed, would not be renewed or reinstated, and that no replacement insurance was to be provided in due course since Theiss had not applied for any. Nevertheless, Varga received the check and deposited it. A few days later, on 3/25/03, Theiss called Republic and was told that the policy had not been renewed, and discovered that the check had been negotiated by House of Insurance. Immediately, Theiss filed with the Insurance Division a complaint about Varga, and House of Insurance. On 5/23/03, about two months after Varga received the check and Theiss' complaint, House of Insurance issued a check, number 2788, dated 5/23/03, in the amount of \$1,689.00, made payable to Theiss, and drawn on House of Insurance' trust account, as reimbursement of the money paid by Theiss to Varga on 3/17/03. Thus, Varga withheld or caused to be withheld from Theiss \$1,689.00 from 3/17/03 to 5/23/03, a period of 67 days; or willfully collected premium for insurance that was not then provided and would not be provided in due course.

Action

Pursuant to ORS 744.074(1), Varga's Oregon resident insurance agent license is revoked on the date of the final order.

As consideration for the director not assessing Varga a civil penalty pursuant to ORS 731.988, Varga shall not apply for any license authorized by ORS Chapter 744; or have any equity interest in, be an officer or director of, or be employed by or contracted with, any person that is issued any license authorized by ORS Chapter 744.

Dated April 28, 2004

/s/Shirley A. Varga
Shirley A. Varga

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 May 13, 2004

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

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