

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

In the Matter of **M. Linda Momberger** and ) **STIPULATION** and  
**M. Linda Momberger dba Jack Barber Insurance.** ) **FINAL ORDER**  
 ) Case No. INS 04-04-004

**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 M. Linda Momberger (Momberger), and M. Linda Momberger dba Jack Barber Insurance (JBI).

Momberger and JBI enter into this stipulation, pursuant to ORS 183.415(5), to conclude this proceeding without further administrative or judicial proceedings.

Momberger and JBI 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.

Momberger and JBI stipulate to the following facts, conclusions, and action; and consents to the issuance of a final order incorporating this stipulation.

**Facts and Conclusions**

Licensing Information

Momberger has been licensed in Oregon as a resident insurance agent from 6/8/88 to 5/31/98, from 5/7/99 to 5/31/00, and from 4/23/01 to 5/31/02. Momberger's license expired on 5/31/98, 5/31/00, and 5/31/02 because she did not renew it. Momberger's last license number was 109878. Momberger's last recorded residence address is located in Hillsboro, Oregon. Momberger's last recorded business address is located in Aloha, Oregon.

JBI has been licensed in Oregon as a resident insurance agent since 8/22/78. JBI's current license number is 803164. JBI is a sole proprietorship. Momberger is

the proprietor of JBI. JBI's last recorded business street address is located in Aloha, Oregon.

#### Withheld Insurance Premium

JBI violated ORS 744.013(2)(d) (1999) in two instances 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 applications or premium for insurance belonging to an insurer, agent or other person entitled to the application or premium.

1. At all relevant times, JBI was required by Commerce West to send to it within three days of receipt all premium that JBI received for insurance provided or to be provided by the insurer. On or about 1/8/01, Momberger, on behalf of JBI, received from Veva H. Enghouse (Enghouse), of Portland, OR, a check, number 0292, dated 1/4/01, in the amount of \$880, made payable to "Linda Jack Barber Ins" as payment of the annual premium to reinstate an automobile insurance policy, number NAC 1026929-01, previously issued to Enghouse by National American Insurance Company of California (NAICC). On 1/8/01, Momberger deposited the check into JBI's insurance premium trust account. On or about 10/6/01, a person, while driving an automobile which was owned by Enghouse and was to be insured by the renewal policy, was involved in an accident. The person contacted the insurer about the accident and was told by the insurer that there was no insurance covering the automobile because the insurer had not received the payment of the premium. On 10/18/01, 283 days after Momberger received the payment from Enghouse on 1/8/01, Momberger issued a check, number 22673, in the amount of \$880, made payable to NAICC to forward the payment. On 10/23/01, the insurer deposited the check. Subsequently, the insurer reinstated the policy effective from 12/12/00 to 12/12/01, which included the date of the accident.

2. At all relevant times, JBI was authorized to represent Austin Mutual Insurance Company (AMIC) in the transaction of insurance in Oregon but was not authorized to negotiate checks made payable to AMIC and retain the proceeds of such checks. Sometime between 10/10/01 and 10/19/01, Momberger, on behalf of

JBI, received from David K. Coverdale (Coverdale), of Beaverton, Oregon, a check, number 5340, dated 10/10/01 in the amount of \$500, made payable to "Austin Mutual." The check was payment either for the annual renewal premium for homeowners insurance provided by AMIC to Coverdale, or for part of the annual premium for commercial insurance that Coverdale had requested Momberger to inquire about or obtain from AMIC to insure Coverdale Enterprises, Inc. dba D K Wilds, a company owned by Coverdale. Momberger endorsed the check so that it could be deposited. On 10/22/01, Momberger completed the deposit slip for that day's deposit but did not list it on the deposit slip because she did not intend for the check to be deposited at that time. However, on that same date, William "Bill" P. Momberger, Momberger's husband and a licensed agent affiliated with JBI, deposited the check into JBI's insurance premium trust account. Subsequently, Momberger discovered that the check had been deposited. After Momberger received the check from Coverdale and knew that it had been deposited into JBI's trust account, she called AMIC to find out exactly how much the renewal premium was for Coverdale's homeowner insurance and AMIC told her that AMIC had already received a payment towards Coverdale's homeowners insurance. So Momberger called and told Coverdale what AMIC told her, and asked him what he wanted her to do with the money. Coverdale told Momberger to hold onto the money and apply it towards the commercial insurance that Coverdale had asked Momberger to inquire about or obtain from AMIC. Momberger knew that AMIC would not insure Coverdale's business because it was an adult video store. After Momberger unsuccessfully tried to find another insurer that would insure Coverdale's business, she returned the money to Coverdale. On 11/30/01, 42 to 51 days after Momberger received the check from Coverdale sometime between 10/10/01 to 10/19/01, Momberger issued a check, number 22864, dated 11/30/01, in the amount of \$500, made payable to "Gold Eagle Investments," another company owned by Coverdale, to return the payment.

### Transacted Insurance by Unlicensed Persons

JBI violated ORS 744.022 (1999) by transacting insurance by and through Momberger on or about 1/8/01 in the Enghouse transaction described above when Momberger was not then licensed in Oregon as an insurance agent.

### Failed to Respond to Director

JBI violated ORS 731.296 in three instance by engaging in the following conduct.

1. On 12/13/01, the Insurance Division mailed, by certified mail, a letter dated 12/12/01 to Momberger, on behalf of JBI, requesting her to provide to the Insurance Division by 1/3/02 certain information about the Coverdale transaction described above. On or about 12/18/02, William "Bill" Momberger (W. Momberger) signed for the letter. On 1/4/02, the Insurance Division received from Momberger a letter dated 1/3/02 providing the requested information. Thus, Momberger responded to the Insurance Division letter one day late.

2. On 3/8/02, the Insurance Division mailed, by certified mail, a letter dated 3/8/02 to Momberger, on behalf of JBI, requesting her to provide to the Insurance Division by 3/22/02 certain information about the Enghouse transaction described above. On or about 3/12/02, W. Momberger signed for the letter. On 3/25/02, the Insurance Division received from Momberger a letter dated 3/21//02 providing the requested information. The letter was postmarked on 3/21/02 in the afternoon. Thus, Momberger responded to the Insurance Division letter three days late.

3. On 3/26/02, the Insurance Division mailed, by certified mail, a letter dated 3/26/02 to Momberger, on behalf of JBI, requesting her to provide to the Insurance Division by 4/12/02 certain additional information about the Enghouse transaction. On 3/27/02, a representative of the Insurance told Momberger that he had mailed a letter to her the previous day, and Momberger told the representative that she would respond when she received the letter. On or about 3/29/02, W. Momberger signed for the letter. On 4/11/02, Momberger told a representative of the Insurance Division that she would mail a response the next day. The Insurance Division did not receive a response. On 4/19/02, the Insurance Division mailed by certified mail and sent by fax, a follow up letter to Momberger. The letter was faxed at 8:11 AM

on 4/19/02. On 4/22/02, the Insurance Division received from Momberger a letter dated 4/18/02 providing the requested information. The letter was postmarked on 4/19/02 in the afternoon. Thus, Momberger responded to the Insurance Division letter seven days late.

Transacted Insurance in Oregon Without a License

Momberger violated ORS 744.051(1)(a) (1999) in one instance by transacting insurance on or about 1/8/01 in the Enghouse transaction described above when Momberger was not then licensed in Oregon as an insurance agent. Although JBI was licensed at this time, Momberger was not, and the only agent of JBI that was licensed at the time did not participate in the transaction or otherwise supervise Momberger as required by OAR 836-071-0280. However, by the time Enghouse had the accident on 10/6/01 and it was discovered that Momberger had not processed Enghouse's request to reinstate the policy, Momberger had renewed her license.

**Action**

Pursuant to ORS 731.988, Momberger is assessed a civil penalty of \$1,000, and JBI is assessed a civil penalty of \$3,000. Payment shall be made in the form of a check payable to the "Department of Consumer and Business Services" for the full amount due. 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. Payment shall be received by the Insurance Division before the date of the final order.

Dated May 6, 2004

/s/ M. Linda Momberger  
M. Linda Momberger

/s/ M. Linda Momberger  
M. Linda Momberger  
Proprietor  
Jack Barber Insurance

**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 28, 2004

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

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