

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

In the Matter of **Marvin A. Stucki,**) **STIPULATION** and
Berkley J. Stucki,) **FINAL ORDER**
Columbia Agencies, Inc.,)
Columbia Insurance Group, Inc., and)
Willamette Insurance Group, Inc.) Case No. INS 04-10-024

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 Marvin A. Stucki (M Stucki), Berkley J. Stucki (BJ Stucki), Columbia Agencies, Inc. (CAI), Columbia Insurance Group, Inc. (CIG), and Willamette Insurance Group, Inc. (WIG) (collectively referred to as the parties).

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

The parties 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.

The parties stipulate to the following facts, conclusions, and action, and consent to issuance of a final order incorporating this stipulation.

Facts and Conclusions

Licensing Information

M Stucki has been licensed in Oregon as a resident insurance agent since 5/16/90, and as an insurance consultant since 12/4/02. M Stucki's last recorded residence and business address is located in Tigard, Oregon.

BJ Stucki has been licensed in Oregon as a resident insurance agent from 7/19/95 to 3/20/96, from 4/15/97 to 4/30/02, since 6/20/02, and as an insurance

consultant since 6/20/02. BJ Stucki's last recorded residence and business address is located in Woodburn, Oregon.

CAI was licensed in Oregon as a resident insurance agent from 9/7/95 to 9/30/02. On 9/30/02, CAI's license expired because it was not renewed. CAI's last recorded address was located in Portland, Oregon. M Stucki is the president of CAI.

CIG was licensed in Oregon as a resident insurance agent from 10/30/90 to 10/5/04, and insurance consultant from 12/4/02 to 10/5/04. On 10/5/04, CIG voluntarily surrendered its licenses. CIG's last recorded business street address was located in Portland, Oregon. M Stucki is the president of CIG.

WIG was licensed in Oregon as a resident insurance agent from 6/27/02 to 10/5/04, and insurance consultant from 10/4/02 to 10/5/04. On 10/5/04, WIG voluntarily surrendered its licenses. WIG's last recorded business address was located in Beaverton, Oregon. BJ Stucki is the president of WIG.

Commingled Premium with Other Money in Trust Account

M Stucki violated ORS 744.083(2) in 21 instances by engaging in the following conduct. ORS 744.083(2) prohibits a person that is licensed in Oregon as a resident insurance agent from commingling or otherwise combining premium with other money in an insurance premium trust account, unless permitted otherwise. In 9/02 and 12/02, in 21 transactions, M Stucki deposited or electronically transferred into CIG's insurance premium trust account money, other than premium, totaling \$38,035.66.

Failed to Deposit or Keep Insurance Premium in Trust Account

M Stucki violated ORS 744.083(1) in 52 instances by engaging in the following conduct. ORS 744.083(1) requires a person that is licensed in Oregon as an insurance agent to deposit into an insurance premium trust account all premium received by the agent, unless permitted otherwise, and keep the premium therein until paid to the person entitled thereto.

1. From 10/02 to 12/02, M Stucki deposited into CAI's operating account ten premium checks totaling \$10,295.00 which were drawn on CAI's insurance premium trust account.

2. From 10/02 to 12/02, M Stucki deposited into WIG's operating account 14 premium checks totaling \$35,204.13 which were drawn on CAI's insurance premium trust account.

3. From 10/02 to 12/02, M Stucki deposited into CIG's operating account 13 premium payments in cash totaling \$7,231.64.

4. From 11/02 to 12/02, M Stucki deposited into WIG's operating account nine premium checks totaling \$16,632.23 which were drawn on CIG's insurance premium trust account.

5. In 12/02, M Stucki deposited into CAI's insurance premium trust account four premium checks totaling \$9,576.13 which were drawn on CIG's insurance premium trust account.

6. In 12/02, M Stucki deposited into CAI's operating account two premium checks totaling \$7,835.00 which were drawn on CIG's insurance premium trust account.

Commingled Premium with Other Money in Trust Account

BJ Stucki violated ORS 744.083(2) in 26 instances by commingling nonpremiums with premiums in a trust account by engaging in the following conduct. ORS 744.083(2) prohibits a person that is licensed in Oregon as an resident insurance agent from commingling or otherwise combining premium with other money in an insurance premium trust account, unless permitted otherwise. From 10/02 to 12/02, in 26 transactions, BJ Stucki, deposited into WIG's insurance premium trust account money, other than premium, totaling \$39,099.92.

Failed to Deposit Insurance Premium in Trust Account

BJ Stucki violated ORS 744.083(1) in 15 instances by engaging in the following conduct. ORS 744.083(1) requires a person that is licensed in Oregon as an insurance agent to deposit into an insurance premium trust account all premium received by the agent, unless permitted otherwise, and keep the premium therein until paid to the person entitled thereto. In 10/02 and 12/02, BJ Stucki deposited into WIG's operating account 15 premium payments by check or in cash totaling \$24,887.08.

Used Trust Account in Other State Without Permission

CIG violated OAR 836-074-0020(1)(a) in one instance by engaging in the following conduct. OAR 836-074-0020(1)(a) requires that a trust account of a person licensed in Oregon as a resident insurance agent be located in this state unless the director gives written permission to the person to keep the account in another state. CIG established and used an insurance premium trust account at Today's Bank located in Vancouver, Washington. The director did not give CIG written permission to keep the trust account in Washington.

Enforcement Action Against Agency for Acts of Agent

CAI, CIG, and WIG are each subject to enforcement action pursuant to ORS 744.074(3) because of the following circumstances. ORS 744.074(3) subjects a business entity to enforcement action when the director determines that an individual licensed in Oregon as an insurance agent violated a provision of the Insurance Code or related rules and the individual's violation was known or should have been known by one or more of the partners, officers, or managers, acting on behalf of the business entity, but they did not report the violation to the director or they did not take any corrective action.

1. M Stucki, while acting on behalf of CAI, violated certain laws specified above. M Stucki, as an officer or manager of CAI knew or should have known of such violations, but did not report such violations to the director and did not take any corrective action.

2. M Stucki and BJ Stucki, while acting on behalf of CIG, violated certain laws specified above. M Stucki and BJ Stucki, as officers or managers of CIG knew or should have known of such violations, but did not report such violations to the director and did not take any corrective action.

3. M Stucki and BJ Stucki, while acting on behalf of WIG, violated certain laws specified above. BJ Stucki, as officer or managers of WIG knew or should have known of such violations, but did not report such violations to the director and did not take any corrective action.

Action

The parties' Oregon resident insurance consultant licenses are revoked pursuant to ORS 744.013(1), and their Oregon resident insurance agent licenses are revoked pursuant to ORS 744.074(1), on the date of the final order.

Dated 12/23/04 /s/ Marvin A. Stucki
Marvin A. Stucki

Dated 12/23/04 /s/ B. J. Stucki
Berkley J. Stucki

Dated 12/23/04 /s/ Marvin A. Stucki
[Signature of Representative]
Marvin A. Stucki
[Printed Name of Representative]
President
[Printed Title of Representative]
Columbia Agencies, Inc.

Dated 12/23/04 /s/ Marvin A. Stucki
[Signature of Representative]
Marvin A. Stucki
[Printed Name of Representative]
President
[Printed Title of Representative]
Columbia Insurance Group, Inc.

Dated 12/23/04 /s/ B. J. Stucki
[Signature of Representative]
Berkley J. Stucki
[Printed Name of Representative]
President
[Printed Title of Representative]
Willamette Insurance Group, Inc.

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FINAL ORDER

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

Dated February 14, 2005

/s/ Joel Ario

Joel Ario

Administrator

Insurance Division

Department of Consumer and Business Services