

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

In the Matter of **Jay D. Witbeck** and) **STIPULATION** and
Senior Benefits Group, LLC) **FINAL ORDER**
) Case No. INS 05-04-004

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 Jay D. Witbeck (Witbeck) and Senior Benefits Group, LLC (SBG).

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

Witbeck and SBG each waive all rights relative to an administrative hearing and judicial review thereof.

Witbeck and SBG each do not stipulate to the following facts and conclusions, but do not contest that the director can prove, by at least a *prima facie* case, such facts and conclusions.

Witbeck and SBG each stipulate to the following action.

Witbeck and SBG each consent to the issuance of a final order incorporating this stipulation.

Facts and Conclusions

Licensing Information

Witbeck has been licensed in Oregon as a resident individual insurance producer since 6/11/90. Witbeck's last recorded residence and business addresses are located in Tigard, Oregon.

SBG has been licensed in Oregon as a resident business entity insurance producer since 5/22/98. Witbeck is the sole member of SBG. SBG's last recorded address is located in Tigard, Oregon.

Demonstrated Incompetence, Untrustworthiness, or Financial Irresponsibility in Business

Witbeck violated ORS 744.074(1)(h) in six instances by engaging in the following conduct. ORS 744.074(1)(h) prohibits a person licensed in Oregon as an insurance producer from, *inter alia*, demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere. From 4/3/03 to 11/13/03, Witbeck sold six contracts to persons located in Oregon. Each contract purported to be an annuity issued jointly by American Equity Investment Life Insurance Company (American Equity), an insurer licensed in Oregon and the Hubbell Charitable Organization (HCO), a purported charitable organization established by Witbeck. The representation that the contracts were issued by American Equity was false and Witbeck knew that it was false because American Equity did not issue the annuity and did not authorize Witbeck to issue the annuity on its behalf. Witbeck collected from the purchasers a total of approximately \$600,000.00. Witbeck invested most of the money in options in the stock market and used some of it to pay expenses of HCO. Witbeck cannot account for the disposition of all of the money received.

Enforcement Action Against Agency for Acts of Agent

SBG is subject to enforcement action pursuant to ORS 744.074(3) in six instances because of the following circumstances. ORS 744.074(3) permits the director to suspend, revoke, or refuse to issue or renew, a business entity's Oregon insurance producer license if the director determines that an individual licensed in Oregon as an insurance producer violated a provision of the Insurance Code or related rules and the individual's violation is 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. Witbeck violated the laws specified above. Witbeck, as the sole member of SBG, knew or should have known of such violations because he committed them. SBG did not report such violations to the director and did not take any corrective action.

Action

Pursuant to ORS 744.074(1) and (3), Witbeck's and SBG's Oregon resident insurance producer licenses are revoked on the date of the final order.

Dated May 10, 2005

/s/ Jay D. Witbeck
Jay D. Witbeck

/s/ Jay D. Witbeck
Jay D. Witbeck
Member
Senior Benefits Group, LLC

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 May 19, 2005

/s/ Joel Ario
Joel Ario
Administrator
Insurance Division
Department of Consumer and Business Services

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