

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

In the Matter of **C. Harry Kirkman III,**
and **Pacific Coast Insurance, Inc.**

) **STIPULATION** and
) **FINAL ORDER**
) Case No. INS 05-04-021

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 C. Harry Kirkman III (Kirkman) and Pacific Coast Insurance, Inc. (PCI).

Kirkman and PCI enter into this stipulation pursuant to ORS 183.415(5).

Kirkman and PCI waive all rights relative to an administrative hearing and judicial review thereof.

Kirkman and PCI stipulate to the following facts, conclusions, action, and to the issuance of a final order incorporating this stipulation.

Facts and Conclusions

Licensing Information

Kirkman has been licensed in Oregon as a resident individual insurance producer since 1/25/01. Kirkman's last recorded residence address is located in Tualatin, Oregon; and last recorded business address is located in Portland, Oregon.

PCI has been licensed in Oregon as a resident business entity insurance producer since 9/18/92. Betty Kwok-Fong Cheng is the President and Kirkman is the Secretary of PCI. PCI's last recorded business address is located in Portland, Oregon.

Demonstrated Incompetence in Business

Kirkman violated ORS 744.074(1)(h) in multiple instances by engaging in the following conduct. ORS 744.074(1)(h) prohibits a person licensed in Oregon as an insurance producer from using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the

conduct of business in this state or elsewhere. Kirkman demonstrated incompetence in conducting insurance business in Oregon. At all relevant times, 27 small businesses in Oregon had contracted with Tri-County Metropolitan Transportation District of Oregon (Tri-Met) in the Portland, Oregon area, and the Salem – Keizer Transit dba Cherriots, formerly known as Salem Area Transit District, (SAT) in the Salem, Oregon area, to provide medical transportation services to Medicaid and Oregon Health Plan recipients. Under the terms of their contracts with Tri-Met and SAT, each small business was required to have general liability insurance. Between 12/1/04 and 3/30/05, Kirkman, on behalf of PCI, submitted to Tri-Met and SAT 27 certificates representing that each small business had general liability insurance. However, this was not correct. In at least some of the 27 instances, Kirkman did not procure any general liability insurance as indicated in the certificates. Kirkman signed the certificates on behalf of PCI.

Enforcement Action Against Agency for Acts of Producer

PCI is 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 producer 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. Kirkman, as an officer of PCI, knew or should have known of the violations indicated above, but did not report such violations to the director, and did not start taking corrective action until the Insurance Division contacted PCI about such violations.

Action

Pursuant to ORS744.074(1), Kirkman's and PCI's Oregon resident insurance producer licenses are revoked on the date of the final order.

The parties shall hereafter not apply for or be issued 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 August 1, 2005

/s/ Harry C. Kirkman III
Harry C. Kirkman III

Dated August 1, 2005

/s/ Betty Kwok-Fong Cheng
Betty Kwok-Fong Cheng
President
Pacific Coast Insurance, Inc.

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 August 9, 2005

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

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