



of the estimated annual premium, for life insurance to be provided by Midland National Life Insurance Company (Midland). Schildknecht completed the application and supplement except the amount of premium paid with the application and the type of aircraft flown by the applicant. Prior to 1/13/05, Schildknecht had discussed with Malanowski how to complete the application and supplement. On or about the same date, 1/13/05, Schildknecht met with Malanowski. Schildknecht specifically discussed with Malanowski how Schildknecht should answer question 3.b on the supplement which asked "What type of aircraft used?" Schildknecht told Malanowski that Hickman had been flying RV4 experimental aircraft since 1999. Malanowski replied by saying that the question only referred to someone who was testing aircraft or doing aerobatics and that Schildknecht should leave the space blank. Schildknecht nevertheless completed the space by writing "RV4 S.E.L." Schildknecht did not complete the application with the amount of the premium paid with the application. Schildknecht gave Malanowski the application, supplement, and check to send to Midland. After Schildknecht left, and sometime between 1/13/05 and 1/24/05, Malanowski made a copy of the application and supplement as worksheets. Malanowski completed, added, or altered the following information on the worksheet copies of the application and supplement for later discussion and verification with Schildknecht. On the application, Malanowski completed the "Amount Paid with Application" with "725.00." On the application, in question 14 regarding contingent beneficiaries, Malanowski whited out "Children, Equally" and typed in "Children of insured, in equal parts." On the application, in question 23(f) regarding past, present, or future participation in a hazardous sport or hobby, Malanowski added "Recreation only" to the right of "Scuba, 15 years ago." On the aviation supplement, in question 3(b), Malanowski whited out "RV4" of "RV4 S.E.L." leaving only "S.E.L." RV4 indicated that Hickman piloted an RV4 experimental type of aircraft. SEL indicated that the aircraft was a "single engine land" type of aircraft. Midland required any change to an application be initialed by the applicant. Malanowski did not have Hickman initial any of the changes or

inform Hickman of any of the changes. Malanowski did not contact Schildknecht to discuss or verify the changes. On or about 1/24/05, Midland received from or on behalf of Malanowski the worksheet copies of the application and supplement, and the check. Midland issued the policy to Hickman at a "preferred PLUS" annual premium of \$620, which was lower than originally quoted by Malanowski. Subsequently, Schildknecht learned that Midland had issued the policy at a lower premium. Schildknecht informed Midland that the Hickman flies an RV4 aircraft, and at Midland's request, faxed to Midland a copy of Schildknecht's copy of the supplement. Based on the correct information about the type of aircraft that Hickman flew, Midland reformed the policy at a "standard" annual premium of \$1,005, which was higher than originally quoted by Malanowski.

#### **Action**

Pursuant to ORS 731.988, Malanowski is assessed a civil penalty of \$1,000. The payment shall be made in the form of a check payable to the "Department of Consumer and Business Services" for the full amount due. The payment shall be delivered to the Insurance Division at the Labor and Industries Building, 350 Winter Street NE, Room 440 (4<sup>th</sup> Floor), Salem, Oregon; or mailed to the Insurance Division at PO Box 14480, Salem, OR 97309-0405. The payment shall be *received* by the Insurance Division by the date of the final order.

Dated June 6, 2006

/s/ James W. Malanowski  
James W. Malanowski

#### **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 June 27, 2006

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