

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

In the Matter of **M. Linda Momberger** ) **FINAL ORDER**  
**dba Jack Barber Insurance** ) Case No. INS 08-10-007

**History of the Proceeding**

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 dba Jack Barber Insurance (JBI).

On 2/4/09, the director issued a notice of proposed action notifying the party that the director proposed to take enforcement action against the party and the party was entitled to a hearing pursuant to ORS 183.415.

On 2/25/09, the director timely received from the party a written request for a hearing.

On 2/26/09, the director referred the party's request for a hearing to the Office of Administrative Hearings (OAH).

On 3/9/09, OAH scheduled a hearing to be conducted on 4/30/09, and mailed to the party a written notice informing the party of the date, time and place of the hearing.

On 3/19/09, the Division filed a motion for summary determination pursuant to Oregon Administrative Rules (OAR) 137-003-0580.

On 4/6/09, OAH mailed to the party a letter reiterating the importance of the motion and giving JBI until 4/13/09 to respond to the motion.

OAH did not receive from the party any response to the motion.

On 4/16/09, OAH cancelled the scheduled hearing, issued a ruling on the motion granting the motion, and issued a proposed order finding that the party committed all of the violations alleged and recommending that the director take the action proposed, in the notice of proposed action. The proposed order informed the party

that it could file with the director written exceptions to the proposed order within 30 days after the proposed order was sent to the party.

The director did not receive from the party any exceptions to the proposed order.

The director now makes the following final decision in this proceeding.

### **Findings of Fact, Conclusions of Law and Opinion**

The director adopts, and incorporates herein by this reference, the findings of fact, conclusions of law, and reasoning of proposed order as the findings of fact, conclusions of law, and reasoning of this final order.

### **Order**

Pursuant to ORS 731.988, JBI is assessed a civil penalty of \$2,000. 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, Salem, Oregon; or mailed to the Insurance Division at PO Box 14480, Salem, OR 97309-0405. Pursuant to ORS 183.090(2), the payment is due on, and shall be received by the Insurance Division by **7/30/09** unless the party timely requests judicial review of the order by **7/20/09**.

### **Notice of Right to Judicial Review**

A party has the right to judicial review of this order pursuant to ORS 183.480 and ORS 183.482. A party may request judicial review by sending a petition for judicial review to the Oregon Court of Appeals. The court must receive the petition within 60 days from the date this order was served on the party. If the order was mailed to a party, then the date of service is the date the order was mailed to the party, not the date the party received the order. If a party files a petition, the party is requested to also send a copy of the petition to the Insurance Division.

Dated May 19, 2009

/s/ Teresa D. Miller  
Teresa D. Miller  
Acting Administrator  
Insurance Division  
Department of Consumer and Business Services