

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

In the Matter of **Michael B. Ferguson**) **STIPULATION** and
) **FINAL ORDER**
) Case No. INS 09-04-007

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 Michael B. Ferguson (Ferguson).

Ferguson desires to conclude this proceeding without a hearing by entering into this stipulation pursuant to ORS 183.417(3).

Ferguson waives all rights relative to an administrative hearing and judicial review thereof.

Ferguson stipulates to the following facts, conclusions, action, and to the issuance of a final order incorporating this stipulation.

Facts and Conclusions

Licensing Information

Ferguson has been licensed in Oregon as a nonresident insurance producer since 12/22/03. Ferguson's last recorded residence and business address is located in Vancouver, Washington.

Made Unsuitable Recommendation in Life Insurance Transaction

Ferguson is subject to enforcement action pursuant to OAR 836-080-0090 because of the following circumstances. OAR 836-080-0090 prohibits a person from recommending that another person purchase or replace a life insurance policy or annuity, or any rider, endorsement or amendment to the policy or annuity, without *reasonable grounds* to *reasonable inquiry* concerning the other person's insurance objectives, financial situation and needs, age and other relevant information known by the person.

On or about 8/1/06, Ferguson recommended that Virginia “Ginny” L. Maier (Maier), then age 88, of Aloha, Oregon, purchase a \$175,000 fixed annuity to be provided by Bankers Life and Casualty Company (Bankers Life). Ferguson did not have reasonable grounds to believe that the annuity was not unsuitable for, or in other words would not harm, Maier because Ferguson knew or should have known that (1) Maier wanted, among other objectives, to preserve her money to help pay for her current living expenses in an assisted living facility, (2) the \$175,000 deposited into the annuity was about 71 percent of Maier’s liquid net worth of about \$245,000, (3) Maier had limited income of about \$1,100 a month from social security and pension, (4) Maier was 88 years old and had a life expectancy of about five years but the annuity had a surrender period of 10 years, and (5) Maier had poor health. Maier relied on Ferguson’s recommendation and applied for the annuity. On 8/2/06, Bankers Life issued the annuity to Maier. Ferguson received \$1,531.25 in commission for selling the annuity.

On or about 10/10/06, Ferguson recommended that V. Jean Taylor (Taylor), then age 83, of Portland, Oregon, purchase a \$70,000 fixed annuity to be provided by Bankers Life. Ferguson did not have reasonable grounds to believe that the annuity was not unsuitable for, or in other words would not harm, Taylor because Ferguson knew or should have known that (1) Taylor wanted, among other objectives, to preserve her money to help pay for anticipated increased living expenses, (2) the \$70,000 deposited into the annuity was about 92 percent of Taylor’s liquid net worth of about \$76,000, (3) Taylor had limited income of about \$2,200 a month from social security and pensions but expenses of about the same amount which increased periodically, (4) Taylor was 88 years old and had a life expectancy of about eight years but the annuity had a surrender period of 10 years, and (5) Taylor had poor health. Taylor relied on Ferguson’s recommendation and applied for the annuity. On 11/3/06, Bankers Life issued the annuity to Taylor. Ferguson received \$612.50 in commission for selling the annuity.

Action

Pursuant to ORS 744.074(1), Ferguson's Oregon nonresident insurance producer license is suspended for 60 days from 6/15/09 to 8/14/09. During the period of suspension, Ferguson shall not transact insurance including servicing existing clients. Ferguson shall refer an inquiry from an existing client to the insurer that issued the policy to the client.

Pursuant to ORS 731.988(2), Ferguson is assessed a civil penalty of \$2,143.75. 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. The payment shall be *received* by the Insurance Division by the date of the final order.

The Director shall not take additional enforcement action against Ferguson for any violation of OAR 836-080-0090 that occurred before the date of the final order.

Dated 5/3/09

/s/ Michael B. Ferguson
Michael B. Ferguson

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 6/12/09

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

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