

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

In the Matter of **Cory B. Giles** and) **FINAL ORDER**
Dealer Insurance Strategies Northwest, Inc.) Case No. INS 09-11-003

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 Cory B. Giles (Giles) and Dealer Insurance Strategies Northwest, Inc. (DISNW).

On 11/24/09, the director issued a notice of proposed action notifying the parties that the director proposed to take enforcement action against the parties and the parties were entitled to a hearing pursuant to ORS 183.415. The notice of proposed action included a statement that if a hearing was not conducted then the designated portion of the Insurance Division's file in this case would automatically become part of the contested case record for the purpose of proving a *prima facie* case.

The director did not receive from the parties a request for a hearing and did not conduct a hearing.

The director finds that the record of this proceeding to date, including information in the designated portion of the Insurance Division's file and all materials submitted by the parties if any, proves a *prima facie* case.

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

Findings of Fact and Conclusions of Law

Licensing Information

Giles has been licensed in Oregon as a resident individual insurance producer since 11/2/88. Giles' last recorded residence address is located in Wilsonville, Oregon and business address is located in Tigard, Oregon.

DISNW has been licensed in Oregon as a resident business entity insurance producer since 5/6/96. DISNW's last recorded business address is located in Wilsonville, Oregon.

Used a Fraudulent, Coercive, or Dishonest Practice in Business

Giles is subject to enforcement action pursuant to ORS 744.074(1)(h) because of the following circumstances. ORS 744.074(1)(h) permits the director to take any authorized enforcement action against a person who has applied for a license or is licensed in Oregon as an insurance producer if the person used a fraudulent, coercive, or dishonest practice, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Oregon or elsewhere. Giles used a dishonest practice in the conduct of insurance business in Oregon. On or about 4/21/04, Giles caused St. Paul Surplus Lines (St. Paul) Insurance Company to issue an insurance policy, number SF05525150, and National Fire & Marine Insurance Company (National Fire) to issue an insurance policy, number 72GHN261116 (later corrected to 72GH120153), to Fast Bikes, Inc. (Fast Bikes) of Portland, Oregon, insuring Fast Bikes from 4/20/04 to 4/20/05. On 5/24/04, and again on 6/3/04, 6/28/04, and 7/1/04, Giles received written notice that the insurers intended to cancel the policies for nonpayment of premium if the premium due was not paid. On 7/1/04, and again on 10/21/04, Giles received written notice that National Fire had canceled its policy as of 6/20/04 for nonpayment of premium. On 8/6/04, and again on 8/13/04 and 8/27/04, Giles received written notice that St. Paul had canceled its policy as of 8/22/04 for nonpayment of premium due. Although Giles knew that the policies had been canceled, Giles misrepresented to others that Fast Bikes was insured under one or both of the policies in the following five instances.

1. On or about 2/1/05, Giles mailed to Fast Bikes a letter dated 2/1/05, and an invoice dated 2/1/05 misrepresenting that Fast Bikes was insured under both the St. Paul and National Fire policies from 4/20/04 to 4/20/05.

2. On or about 8/24/05, Giles faxed to American Lease Insurance a "Commercial Certificate of Insurance" dated 5/15/05 misrepresenting that Fast Bikes was insured under the St. Paul policy from 4/20/05 to 4/20/06.

3. On or about 11/29/05, Giles mailed to Fast Bikes a letter dated 11/29/05 saying in part "I have updated the insurance information and have structure[d] the

billings to go out quarterly directly to you. I am having the company email me a statement of amount due. You should receive this later today or tomorrow.” The letter did not identify the name of the insurer(s) or policy number(s).

4. On or about 12/11/05, Giles mailed to Fast Bikes a “Billing Statement” misrepresenting that both the St. Paul and National Fire policies were reinstated, and Fast Bikes was insured under both the St. Paul and National Fire policies from 11/15/05 to an unspecified date.

5. On or about 6/22/06, Giles faxed to American Lease Insurance a “Commercial Certificate of Insurance” dated 6/21/06 misrepresenting that Fast Bikes was insured under the St. Paul policy from 4/20/06 to 4/20/07.

Misappropriated Money or Property Received in Course of Insurance Business

Giles is subject to enforcement action pursuant to ORS 744.074(1)(d) because of the following circumstances. ORS 744.074(1)(d) permits the director to take any authorized enforcement action against a person who has applied for a license or is licensed in Oregon as an insurance producer if the person improperly withheld, misappropriated, or converted, any moneys or properties received by the person in the course of doing insurance business. On an unknown date sometime between 2/16/05 and 3/9/05, Giles received from Fast Bikes a check, number 2122, dated 2/16/05, in the amount of \$1,238.00, made payable to “Swett & Crawford,” as payment of premium for insurance. On or about 3/9/05, Giles deposited the check into DISNW’s insurance premium trust account, number 2396409740, at Bank of America. On an unknown date sometime between 1/19/06 and 2/16/06, Giles received from Fast Bikes a check, number 2285, dated 1/19/06, in the amount of \$1,328.75, made payable to DISNW, as payment of premium for insurance. On or about 2/16/06, Giles deposited the check into DISNW’s insurance premium trust account, number 2396409740, at Bank of America. Since the policies had been canceled in 2004, and not reinstated or replaced, Giles improperly withheld, misappropriated, or converted \$2,566.75 from Fast Bikes. On 4/27/07, Giles issued a check, number 1515, dated 4/27/07, in the amount of \$1,600, made payable to

“Fast Bikes Inc.,” refunding some of the money Fast Bikes paid to Giles for insurance. Giles has not refunded to Fast Bikes the remaining \$966.75.

Commingled Premium with Other Money in Trust Account

Giles is subject to enforcement action pursuant to ORS 744.083(2) because of the following circumstances. ORS 744.074(1)(b) permits the director to take any authorized enforcement action against a person who has applied for a license or is licensed in Oregon as an insurance producer if the person violated any insurance statute; or any rule, order, or subpoena, of the director or the insurance regulator of another state. ORS 744.083(2) prohibits a person that is licensed in Oregon as a resident insurance producer from commingling or otherwise combining premium with other money in an insurance premium trust account, unless permitted otherwise. At least from 6/8/04 to 6/6/07, Giles deposited an indeterminable amount of commissions into DISNW’s insurance premium trust account, number 2396409740, at Bank of America. Giles kept some commissions therein for purposes other than those permitted by ORS 744.083(3). Giles used such commissions to pay for personal and business expenses, as evidenced in the following 18 instances.

1. On or about 6/8/04, Giles issued a check, number 1200, dated 6/8/05, in the amount of \$200.00, and made payable to Verizon to pay for a business telephone bill.
2. On or about 6/9/04, Giles issued a check, number 1199, dated 6/9/04, in the amount of \$10.00, and made payable to John Griffiths to pay for Griffiths’ service charge.
3. On or about 7/14/04, Giles issued a check, number 1205, dated 7/14/05, in the amount of \$271.63, and made payable to Fast Bike to pay for Fast Bikes’ premium finance service charge.
4. On or about 8/31/04, Giles issued a check, number 1211, dated 8/31/04, in the amount of \$55.00, and made payable to Sean Murphy to pay for computer work.
5. On or about 9/1/04, Giles issued a check, number 1212, dated 9/1/04, in the amount of \$54.00, and made payable to Kristyana Laine to pay for an unidentified personal or business purpose.

6. On or about 9/3/04, Giles issued a check, number 1214, dated 9/3/04, in the amount of \$125.00, and made payable to Verizon to pay for a business telephone bill.

7. On or about 1/20/05, Giles issued a check, number 1399, dated 1/20/05, in the amount of \$60.41, and made payable to D & E Pharmacy to pay for medicine.

8. On or about 3/16/05, Giles issued a check, number 1254, dated 3/16/05, in the amount of \$126.00, and made payable to Nicole Albazzaz to pay for “towing refund.”

9. On or about 12/20/05, Giles issued a check, number 1390, dated 12/20/05, in the amount of \$60.41, and made payable to D & E Pharmacy to pay for “delivery.”

10. On or about 1/14/06, Giles issued a check, number 1400, dated 1/14/06, in the amount of \$301.00, and made payable to Staci Menford to pay for “consult fee.”

11. On or about 1/24/06, Giles issued a check, number 1401, dated 1/24/06, in the amount of \$294.00, and made payable to Tanya Kus to pay for “consult fee.”

12. On or about 2/2/06, Giles issued a check, number 1405, dated 2/2/06, in the amount of \$32.00, and made payable to Dr. Cox to pay for an unidentified personal or business purpose.

13. On or about 2/23/06, Giles issued a check, number 1411, dated 2/23/06, in the amount of \$594.00, and made payable to Tanya Kus to pay for “consult fee.”

14. On or about 3/30/07, Giles issued a check, number 1504, dated 3/30/07, in the amount of \$180.00, and made payable to Dave Alexander to pay for “CSR draw.”

15. On or about 4/4/07, Giles issued a check, number 1508, dated 4/4/07, in the amount of \$700.00, and made payable to Dave Alexander to pay for an unidentified personal or business purpose.

16. On or about 4/6/07, Giles issued a check, number 1510, dated 4/6/07, in the amount of \$120.00, and made payable to Comcast to pay for unidentified business expense.

17. On or about 6/4/07, Giles issued a check, number 1527, dated 6/4/07, in the amount of \$150.00, and made payable to Brandt Page to pay for “rent.”

18. On or about 6/6/07, Giles electronically transferred, reference number 902571562884138, \$296.50 from his trust account to Verizon to pay for a business telephone bill.

Enforcement Action Against Business Entity for Acts of Individual

DISNW is subject to enforcement action pursuant to ORS 744.074(3) because of the following circumstances. ORS 744.074(3) permits the director to take any authorized enforcement action against a business entity that is licensed in Oregon as an insurance producer when the director determines that an individual that is licensed in Oregon as an insurance producer violated a provision of the Insurance Code or related rules, and the partners, officers, or managers of the business entity knew or should have known of the individual's violation but they did not report the violation to the director or they did not take any corrective action or both. Giles, as an employee of DISNW, violated the laws specified above. Giles, as an officer of DISNW, knew or should have known of such violations because he violated the laws himself. However, Giles did not report such violations to the director and did not take any corrective action.

Order

Pursuant to ORS 744.074(1), Giles' Oregon resident individual insurance producer license is revoked on the date of this order.

Pursuant to ORS 744.074(3), DISNW's Oregon resident business entity insurance producer license is revoked on the date of this order.

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 personally delivered to a party, then the date of service is the date the party received the order. 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 by delivering it to the Labor and Industries Building, 350 Winter Street NE Room 300, Salem, Oregon 97301-3880; or mailing it to PO Box 14480, Salem, OR 97309-0405; or faxing it to 503-378-4351; or e-mailing it to mitchel.d.curzon@state.or.us.

Dated December 17, 2009

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

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