

Liberty Street NE, Salem, OR 97307-0070; *business mailing* address was PO Box 20220, Keizer, OR 97307-0220; and *business* telephone number was 503-390-3755.

Executive Financial was licensed in Oregon as a resident business entity insurance producer from 11/30/07 to 11/30/09. On 11/30/09, Executive Financial's license expired. Previously, on or about 10/15/08, Executive Financial was dissolved. Bauer was the president of Executive Financial. Executive Financial's license number was 816847, NAIC national producer number was 8645711, and federal employer identification number (FEIN) is 42-1566911, and Oregon business name registration number was 119838-97. Executive Financial's last recorded *business street address* was 5895 Shoreview Lane North, Keizer, OR 97303-3866; *business mailing address* was PO Box 20220, Keizer, OR 97307-0220; and *business* telephone number was 503-390-3755.

Misappropriated Money or Property Received in Course of Insurance Business, and Used a Fraudulent, Coercive, or Dishonest Practice in Business

Bauer is subject to enforcement action pursuant to ORS 744.074(1)(d) and ORS 744.074(1)(h) 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. 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.

On or about 7/11/08, Bauer sent or caused to be sent to Capital Premium Financing, Inc. (Capital) a premium financing agreement representing that an insurance policy was proposed to be issued to Quarry Direct Stone Sales, Inc. and applying to borrow \$51,495.00 to pay most of the annual premium for the proposed policy. On or about 7/15/08, Capital approved the loan and deposited \$51,495.00

into Bauer's trust account as payment of the premium. Subsequently, Bauer knew that the policy would not be issued, and thus the representation that a policy would be issued was false and none of the proceeds of the loan would be owed to the insurer. However, Bauer used the proceeds of the loan for business or persons purposes rather than returning it to Capital.

On or about 7/21/08, Bauer sent or caused to be sent to Capital a premium financing agreement representing that an insurance policy had been issued to "W T Equipment" and applying to borrow \$77,415.00 to pay most of the annual premium for the policy. On or about 7/23/08, Capital approved the loan and deposited \$77,415.00 into Bauer's trust account as payment of the premium. At the time the premium financing agreement was sent to Capital, Bauer knew that the policy had not been and would not be issued, and thus the representation that a policy had been issued was false and none of the proceeds of the loan would be owed to the insurer. However, Bauer used the proceeds of the loan for business or persons purposes rather than returning it to Capital.

On or about 7/24/08, Bauer sent or caused to be sent to Capital a premium financing agreement representing that an insurance policy had been issued to "Hoffman Farms" and applying to borrow \$61,326.75 to pay most of the annual premium for the policy. On or about 7/23/08, Capital approved the loan and deposited \$61,326.75 into Bauer's trust account as payment of the premium. At the time the premium financing agreement was sent to Capital, Bauer knew that the policy had not been and would not be issued, and thus the representation that a policy had been issued was false and none of the proceeds of the loan would be owed to the insurer. However, Bauer used the proceeds of the loan for business or persons purposes rather than returning it to Capital.

Failed to Deposit Insurance Premium into Trust Account and
Failed to Keep Insurance Premium in Trust Account

Bauer is subject to enforcement action pursuant to ORS 744.083(1) 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(1) requires a person that is licensed in Oregon as an insurance producer to deposit into an insurance premium trust account all premium received by the insurance producer, unless permitted otherwise, and keep the premium therein until paid to the person entitled thereto.

From 4/1/08 to 8/22/08, in 25 instances, Bauer transferred \$487,646.14 from his insurance premium trust account to his business operating account, at least some of which was insurance premium which should have remained in the trust account.

From 4/7/08 to 7/28/08, in 19 instances, Bauer deposited \$110,373.06 into his business operating account all of which were insurance premium which should have been initially deposited and retained in his trust account until due the person entitled to the premium.

On 5/15/08, Bauer transferred \$5,600 from his trust account to his personal account, at least some of which was insurance premium which should have remained in the trust account.

On 8/13/08, Bauer deposited \$3,900.00 into his business operating account all of which was insurance premium which should have been initially deposited and retained in his trust account until due the person entitled to the premium.

Enforcement Action Against Business Entity for Acts of Individual

Executive Financial is subject to enforcement action pursuant to ORS 744.074(3) because of the following circumstances. ORS 744.074(3) permits the director to only revoke, suspend, refuse to issue, or refuse to renew, the Oregon business entity insurance producer license issued to a business entity when the director determines that an individual, who was employed by or otherwise authorized to act for the business entity, and was licensed in Oregon as an individual 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 the partners, officers, or managers did not report the violation to the director or did not take any corrective action or both. Executive

Financial is licensed in Oregon as a business entity insurance producer. Executive Financial is licensed in Oregon as a business entity insurance producer. Bauer is licensed in Oregon as an individual insurance producer. Bauer, as an employee of Executive Financial, committed certain violations described above. Bauer, as an officer of Executive Financial, knew or should have known of such violations because he committed the violations. However, Bauer did not report such violations to the director and did not take any corrective action.

Action

Pursuant to ORS 744.074(1), Bauer's expired Oregon resident individual insurance producer license, and Executive Financial's expired Oregon resident business entity insurance producer license, are revoked on the date of the final order.¹

As consideration for the director not continuing to investigate or taking additional enforcement action against Bauer and Executive Financial, Bauer and Executive Financial each agree to never apply for 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.

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¹ ORS 744.011 permits the director to investigate and take enforcement action against a person who was licensed in Oregon as an insurance producer but is no longer licensed because the license expired or was surrendered.

Dated June 7, 2010

/s/ Richard A. Bauer
Richard A. Bauer

Dated June 7, 2010

/s/ Richard A. Bauer
Richard A. Bauer
President
Executive Financial Insurance & Leasing Co.

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 24, 2010

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

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