

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

In the Matter of **Michelle L. Collup** ) **STIPULATION and**  
 ) **FINAL ORDER**  
 ) Case No. INS 12-11-007

**STIPULATION**

The Director of the Oregon Department of Consumer and Business Services (director), by and through the Insurance Division, commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take enforcement action against Michelle L. Collup (Collup).

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

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

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

**Facts and Conclusions**

Licensing Information

Collup has been licensed in Oregon as a resident individual insurance producer from 5/8/06 to 12/31/08, from 12/10/09 to 12/31/10, and from 2/3/11 to 12/31/12; and as a nonresident individual insurance producer since 1/1/13. Collup's license is scheduled to expire on 12/31/14. Collup's license number is 698944, and NAIC national producer number is 8819166. Collup's last recorded residence address is 1001 Cornish Drive, Encinitas, CA 92024-5107; and telephone number is 541-300-0897. Collup's last recorded business address is Michelle L. Collup dba Monarch Broker, 1001 Cornish Drive, Encinitas, CA 92024-5107; telephone number is 541-300-0897; and e-mail is [michellecollup@gmail.com](mailto:michellecollup@gmail.com).

### Failed to Notify Director of Use of Assumed Business Name

Collup is subject to enforcement action pursuant to ORS 744.068(1) because of the following circumstances.

ORS 744.068(1) requires a person licensed in Oregon as an insurance producer to notify the director before using an assumed business name while transacting insurance in Oregon.

Since sometime in early 2011, Collup has been using the assumed business name of "Monarch Broker" while transacting insurance. Collup notified the director by telephone on 10/31/11, and by mail on 12/9/11, that she was using the assumed business name.

### Charged Impermissible Service Fee

Collup is subject to enforcement action pursuant to OAR 836-071-0277(2) because of the following circumstances.

ORS 744.077(2) prohibits a person licensed in Oregon only as an insurance producer from receiving compensation other than commission, for soliciting, selling, or negotiating insurance relative to persons residing in Oregon except as permitted otherwise by statute or rule.

OAR 836-071-0277(1) states that "[s]ervice fees may be charged with respect to the transaction of insurance that covers other than an individual's person, property, or liability."

OAR 836-071-0277(2) states that "[e]xcept as authorized in ORS 744.091 and [ORS] 744.093, a service fee [permitted to be charged by OAR 836-071-0277(1)] may be charged only in those instances where the insurance producer has provided service additional to what is the usual and customary practice of insurance producers under similar circumstances. The insurance producer must give a written explanation of the charge and the reason for it to the person charged."

Collup charged a fee in 15 instances ranging from \$21 to \$300 for a total of \$2,490.00 from 1/25/11 to 3/30/12. Collup charged the fee for purportedly (1) sending requests for quotes to multiple carriers in all 15 instances, (2) sending a certificate and policy to the Oregon Construction Contractors Board (CCB) in all 15

instances, (3) sending a certificate and policy to the insured in 11 instances, (4) sending certificates to other persons such as contractors in eight instances, (5) contacting insured about late payment in four instances, and (6) reviewing policy to meet changing operations in one instance.

Collup explained in writing to each person charged the amount of the fee, and that the fee was a “broker fee,” but did not explain what services Collup intended to provide or purportedly provided. Collup purportedly provided some of the same services to other persons without charging them a fee.

The services that Collup purportedly provided and charged a fee for providing were not “additional to what is the usual and customary practice of insurance producers under similar circumstances” because most other insurance producers in Oregon that sell CCB contractor license bonds and provide these services to their insureds do not charge a fee for providing such services. Even if these services were not usual and customary, Collup still could not charge a fee for these services because Collup did not explain in writing what services Collup intended to provide or purportedly provided.

Additionally, no other statute or rule, including ORS 744.091, ORS 744.093, OAR 836-071-0263, OAR 836-071-0267, and OAR 836-071-0269, permitted Collup to charge the fees.

### **Action**

Pursuant to ORS 731.988(1), Collup is assessed a civil penalty of \$600.00. 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 or mailed to the Insurance Division at the Labor and Industries Building, 350 Winter Street NE Room 300, Salem, OR 97301-3880; or mailed to the Insurance Division at PO Box 14480, Salem, OR 97309-0405. The payment shall be received by the Insurance Division before the date of the final order.

Collup shall refund the service fees described above totaling \$2,490.00. By **3/1/13**, Collup shall issue a refund check to each person that paid the fee. By **6/1/13**, Collup shall send any unrefunded fee to the Oregon Department of State

Lands (ODSL) pursuant to ORS 98.005 *et seq.* and OAR 141-045-0005 *et seq.* By **7/1/13**, Collup shall send to the director a written list of the name and address of the payee, the check number, the date of the check, and if the check was negotiated then also the date the check was paid by the bank, but if the unrefunded fee was sent to ODST then also the date it was sent and a copy of the check issued to ODSL.

Dated January 20, 2013

/s/ Michelle L. Collup  
Michelle L. Collup

**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 January 31, 2013

/s/ Louis Savage  
Louis Savage  
Insurance Commissioner

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