STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of: WILLIAM M. JOHNSON, an individual, and JOHNSON INSURANCE AGENCY, PC, an Oregon Professional Corporation Respondent.	Case No. INS -21-0005 ORDER TO CEASE AND DESIST, ORDER ASSESSING CIVIL PENALTIES, AND CONSENT TO ENTRY OF ORDER THIS IS A FINAL ORDER

The Director of the Department of Consumer and Business Services for the State of Oregon ("Director"), acting in accordance with Oregon Revised Statutes ("ORS") 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750 ("Insurance Code"), has determined that William M. Johnson ("Johnson") and Johnson Insurance Agency, PC ("JIA") engaged in activities constituting violations of the Oregon Insurance Code. Johnson and JIA are collectively referred to in this Order as "Respondents."

Respondents wish to resolve and settle this matter with the Director.

Now, therefore, as evidenced by the authorized signatures subscribed on this Order, Respondents hereby CONSENT to entry of this Order upon the Director's Findings of Fact and Conclusions of Law as stated hereinafter.

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Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

FINDINGS OF FACT

The Director FINDS that:

1. Respondents Johnson and Johnson Insurance Agency are both licensed as insurance producers in Oregon. Johnson's license number and National Producer Number (NPN) is 7939743; JIA's license number is 100168116 and NPN is 12322639.

2. Johnson is the principal and Designated Responsible Licensed Producer ("DRLP") of JIA. Respondents' business address is 210 Oak Street, Suite #1, Silverton, OR 97381.

3. In 2016, a client of Respondents, identified for purposes of this Order as MN, purchased Markel General Liability Policy# MTD00000327450 ("Policy# 327450") to cover his commercial fishing boat ("the Fishing Boat").

4. On March 14, 2017, MN informed JIA that he was selling the Fishing Boat to a third party, identified for purposes of this Order as JL.

5. On April 17, 2017, Policy# 327450 was cancelled for nonpayment of premiums. It is unclear whether JIA received notice of this cancellation.

6. On April 18, 2017, JL purchased Markel Policy # MTD00000378260 ("Policy# 378260") to cover the Fishing Boat.

7. On November 2, 2018, MN contacted JIA and notified JIA that JL had defaulted on the contract for purchase of the Fishing Boat and that MN had taken back ownership. MN believed, based on this conversation, that Policy# 378260 would remain in effect through April of 2019.

8. On or about March 14, 2019, Markel automatically sent renewal notices for Policy# 378260 to Respondent JIA and to JL. It is unclear whether JIA received notice of this cancellation.

9. On April 11, 2019, as a part of JIA's routine process for Markel renewals, JIA generated a Certificate of Liability ("CoL") document indicating that the Fishing Boat and MN were insured under Policy# 378260 from April 17, 2019 through April 17, 2020. A CoL was required by the Port of Newport for MN to moor the Fishing Boat at the port. Johnson signed the CoL, and the CoL was received by the Port of Newport on April 15, 2019.

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10. On July 12, 2019, MN contacted Johnson Insurance Agency to pay the premium for the insurance policy on the Fishing Boat. An employee of JIA, identified for purposes of this Order as CZ, attempted to transmit payment to Markel on behalf of MN, but was informed that Markel could not process the payment because Policy# 378260 (the policy purchased by JL) had expired in April of 2019 and Policy# 327450 (the policy originally purchased by MN) had been cancelled in April of 2017 for non-payment. CZ eventually emailed Markel about the situation and provided copies of what she understood to be the declarations page then in effect for MN's insurance policy.

11. In the late summer of 2019, Markel began an investigation into these matters. In the course of this investigation, Markel reviewed the CoL and declarations page provided to the Port of Newport by Johnson Insurance Agency. Markel concluded that, although the declarations page purported to be from Markel, the declarations page differed from the standard form typically used by Markel.

12. Most notably, the declarations page included a statement that premium checks should be made payable to Johnson Insurance Agency. Markel typically directly bills insureds, and statements of this type do not appear on Markel's declarations pages. The Division is not aware of any other declarations page in Johnson's business records with similar verbiage. Bank records establish that neither Johnson nor JIA received any MN payment intended to pay a Markel premium.

13. In addition to the statement about premiums checks, the declarations page included the following inaccuracies and/or deviations from the standard form: identified MN (rather than JL) as the insured under Policy# 378260; stated the effective dates of the policy as April 17, 2019 to April 17, 2020. Furthermore, the page number formatting was altered and several lines of standard text appeared to be covered or redacted from the bottom of the form that would have otherwise identified the forms and endorsements and the date and location of signing.

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14. Based on these findings, and on the fact that Markel did not currently have an active policy covering the Fishing Boat, Markel reported this matter to the Oregon Division of Financial Regulation (the Division).

15. It is not clear who at JIA generated the inaccurate declarations page and CoL.

16. Johnson, the DLRP for JIA, was away from JIA and was unavailable by phone or email on several occasions during the events involving MN and the fishing boat. During these absences, JIA's staff were left to deal with the day-to-day business of the agency. It is not clear whether Johnson's physical presence at JIA would have prevented issuance of the inaccurate declarations page.

17. In his interview with the Division, Johnson admitted that at the time he signed the inaccurate CoL, he knew MN had not applied for insurance, had not purchased a Markel policy, and that neither the Fishing Boat nor MN was insured for the period April 17, 2019 to April 17, 2020. Johnson stated that he was signing in anticipation of MN obtaining a policy.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

Cease and Desist Authority

18. Under ORS 731.252 (1), because the Director has reason to believe that Johnson and JIA have violated the ORS Chapter 731 and 744, the Director may issue an order to Johnson and JIA to cease and desist from violations of ORS chapters 731 and 744.

Duty of Competence in Insurance Business

19. Under ORS 744.074(1)(h), the Director may "place a licensee on probation or suspend, revoke or refuse to issue or renew an insurance producer license" if a producer demonstrates "incompetence, * * * in the conduct of business."

20. Under ORS 744.059(2)(b), as the DRLP of JIA, Johnson is responsible for JIA's "compliance with the insurance laws and rules of this state."

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21. JIA negligently allowed the inaccurate Declarations Page to be included in its files relating to Policy #378260, and thereby demonstrated incompetence in its role as an Oregon insurance producer.

22. JIA negligently failed to verify the information in the inaccurate declarations page, and thereby demonstrated incompetence in its role as an Oregon insurance Producer by creating the inaccurate CoL.

23. Johnson negligently failed to verify the existence of a current policy for MN at the time of renewal and thereby demonstrated incompetence in his role as an Oregon insurance producer by signing the CoL.

24. Johnson was the DRLP of JIA during the time when the inaccurate declarations page was created, and is unable to provide a verified explanation as to its origins.

Civil Penalties Authority

25. Under ORS 731.988(1), the Director may impose a civil penalty not to exceed $10,000 for each violation of the Insurance Code on any person other than an individual insurance producer, adjuster, or insurance consultant.

26. Under ORS 731.988(1) the Director may impose a civil penalty not to exceed $1,000 for each violation of the Insurance Code on any individual insurance producer, adjuster, or insurance consultant.

ORDERS

Now therefore, the Director issues the following Orders:

Cease and Desist

27. As authorized by ORS 731.252, the Director ORDERS Respondents to CEASE AND DESIST from violating ORS 744.074(1)(h).

Civil Penalties

28. As authorized by ORS 731.988(1), the Director hereby ORDERS that JIA be subject to a CIVIL PENALTY of $20,000 as follows:

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A. $10,000 for violating ORS 744.074(1)(h) by permitting the inaccurate declarations page to be added to its records concerning Policy #378260.

B. $10,000 for violating ORS 744.074(1)(h) by producing the inaccurate CoL.

29. As authorized by ORS 731.988(1), the Director hereby ORDERS that Johnson be subject to a CIVIL PENALTY of $2,000 as follows:

A. $1,000 for violating ORS 744.074(1)(h) by signing the inaccurate CoL;

B. $1,000 for violating ORS 744.074(1)(h) by failing to ensure that JIA maintained proper records regarding Policy# 378260.

30. The Director hereby SUSPENDS payment of $18,000 of the CIVIL PENALTY imposed on JIA for a period of three years from the effective date of this Order, provided Respondents comply with the following terms:

(a) Within 60 days of the effective date of this Order, Respondents shall provide the Division with a written document describing in detail the steps Respondent has taken to ensure the integrity of the JIA's recordkeeping regarding the policies sold or administered by JIA. The Division may, within 60 days of the receipt of this document, require Respondents to make reasonable alterations or additions to these steps.

(b) Within 1 year of the effective date of this Order, Johnson shall provide proof to the Division that Johnson has completed 10 hours of accredited Continuing Education credits in the area of Ethics, in addition to any ethics-based training that is required for Johnson to maintain his license. All of these credits must come from courses that meet the requirements for accreditation under OAR 836-071-0225. The additional Ethics credits must come from courses that are conducted live, either in-classroom or by webinar. Courses denominated as "Independent Study" will not satisfy this requirement.

(c) For the three years following the effective date of this Order, Respondents shall make all records relating to policies sold or administered by JIA

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available to the Division upon request. JIA shall be responsible for paying the reasonable costs incurred in order to comply with the Division's requests for records.

(d) For the three years following the effective date of this Order, Respondents shall commit no new violations of the Insurance Code or of any rules adopted thereunder.

31. The $2,000 CIVIL PENALTY assessed herein against Johnson and the $2,000 unsuspended amount of the CIVIL PENALTY assessed herein against JIA is due and payable at the time this Order is returned to the Division.

32. The suspended CIVIL PENALTY will be waived three years from the effective date of this Order, provided Respondents have complied with the forgoing Order terms and do not commit any further violations of the Insurance Code during the three-year period. Respondents' failure to satisfy any terms of this Order will render the suspended civil penalties immediately due and payable.

33. This Order is binding upon Respondents' successors and assigns.

34. This Order is a "Final Order" under ORS 183.310(6)(b). Subject to that provision, the entry of this Order does not limit other remedies that are available to the Director under Oregon law.

SO ORDERED this 9th day of March, 2023.

Andrew R. Stolfi, Director
Department of Consumer and Business Services

/s/ Dorothy Bean
Dorothy Bean, Chief of Enforcement
Division of Financial Regulation

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CONSENT TO ENTRY OF ORDER

I, WILLIAM M. JOHNSON, state that I have read the foregoing Consent Order and that I know and fully understand the contents hereof; that the factual allegations stated herein are true and correct; that I have been advised of my right to a hearing, and that I have been advised of my right to be represented by counsel in this matter; that I voluntarily consent to the entry of this Consent Order without any force or duress, expressly waiving any right to a hearing in this matter, as well as any rights to administrative or judicial review of this Consent Order; that I understand that the Director reserves the right to take further actions against me to enforce this Consent Order or to take appropriate action upon discovery of other violations of the Insurance Code by me; and that I will fully comply with the terms and conditions stated herein.

I understand that this Consent Order is a public document.

/s/ William M. Johnson
Signature

State of Oregon

County of Marion

Signed or attested before me on this 31st day of January, 2023

by William M. Johnson.

/s/ Michelle S. Parker
Notary Public

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ENTITY CONSENT TO ENTRY OF ORDER

I, _____, state that I am an officer of JOHNSON INSURANCE AGENCY, PC. and authorized to act on its behalf. I have read the foregoing Consent Order and that I know and fully understand the contents hereof. I have been advised of JOHNSON INSURANCE AGENCY, PC's right to a hearing and right to be represented by counsel in this matter. JOHNSON INSURANCE AGENCY, PC voluntarily consents to the entry of this Consent Order without any force or duress, expressly waiving any right to a hearing in this matter, as well as any rights to administrative or judicial review of this Consent Order. JOHNSON INSURANCE AGENCY, PC understands that the Director reserves the right to take further actions against it to enforce this Consent Order or to take appropriate action upon discovery of other violations of the Oregon Debt Management Service Provider law by JOHNSON INSURANCE AGENCY, PC. JOHNSON INSURANCE AGENCY, PC will fully comply with the terms and conditions stated herein.

JOHNSON INSURANCE AGENCY, PC understands that this Consent Order is a public document.

Signature: /s/ William M. Johnson

Position Held: Agency Owner

State of Oregon

County of Marion

Signed or attested before me on this 31st day of January 2023

By William Johnson.

/s/ Michelle S. Parker
Notary Public

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