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

| | | |
|---|---|---|
| In the Matter of | ) | **STIPULATION AND** |
| **Michael J. DePaolo** | ) | **FINAL ORDER** |
| | ) | Case No. INS 01-05-017 |

## STIPULATION

The Director of the Department of Consumer and Business Services (Director) proposed to revoke the Oregon insurance agent's license of Michael J. DePaolo (DePaolo) and to impose a civil penalty of $10,000. DePaolo stipulates that he has received the Notice of Proposed Action, Notice of Hearing, Important Information Concerning Your Contested Case Hearing with the Insurance Division, and Notice of Contested Case Rights and Procedures.

DePaolo has been advised of his right to have a hearing, to be represented by an attorney at the hearing, and the right of judicial review of any decision adverse to him. DePaolo is represented by Melia M. Shears, Attorney at Law. After consulting with Ms. Shears, DePaolo freely and voluntarily waives his right to a hearing, to be represented during such hearing and to judicial review from the agency's order issued herein.

DePaolo admits to and agrees with the following:

### Findings of Fact

At all relevant times, DePaolo was licensed in Oregon as an insurance agent. However, Michael P. Giannetti (Giannetti) was not licensed in Oregon as an insurance agent. From approximately May 5, 1994, to April 28, 1998, Giannetti solicited and received from four persons, who resided in Oregon, five applications for either life insurance to be provided by First Colony Life Insurance Company (First Colony) or

health insurance to be provided by QualMed Oregon Health Plan, Inc. (QualMed). The dates of the applications, names of the applicants, names of the insurer and policy number are as follows:

| Date | Applicant | Insurer | Policy No. |
|---|---|---|---|
| 5/5/94 | Edward Herinckx | First Colony | 2147033 |
| 10/18/94 | Barbara Jefferies | First Colony | L4091493 |
| 12/9/94 | Sue Wendling | First Colony | L4341403 |
| 5/31/97 | Michael Yochim | First Colony | 13200932 |
| 4/28/98 | Barbara Jefferies | QualMed | E184 |

DePaolo signed the applications as the soliciting agent. DePaolo sent the applications to the respective insurer and that insurer issued the policies. By signing the applications and sending them to the respective insurer, DePaolo represented to the respective insurer that DePaolo personally saw the applicants and accurately recorded on their applications the information provided by each applicant.

**Conclusions of Law**

DePaolo violated ORS 744.054 in five instances and ORS 746.100. The Director, Department of Consumer and Business Services, may revoke the licenses of and assess civil penalties against agents who violate the Oregon Insurance Code. ORS 744.013(1)(a), (2)(c); 731.988.

**Stipulation and Waiver**

The below undersigned, Michael J. DePaolo, having read and reviewed the above Findings of Fact and Conclusions of Law submitted by the Director, acting by and through the Oregon Insurance Division, and having further read the order that follows, does understand that the Findings of Fact, Conclusions of Law, and this Stipulation and Waiver embody the full and complete agreement and stipulation between the undersigned

and the Director, Department of Consumer and Business Services/Oregon Insurance Division. DePaolo further understands that he has the right to request a hearing on this matter, to be represented by legal counsel at such hearing and to seek judicial review from any order adverse to him. DePaolo freely and voluntarily waives his rights to have a hearing on this matter, to representation by counsel at such a hearing and to seek judicial review from any order adverse to him.

In consideration of this stipulation, DePaolo agrees that his insurance agent's license shall be revoked and that he shall not thereafter apply to the Director for any license as an insurance agent, consultant or adjuster to be issued to DePaolo or to any business organization owned or operated by DePaolo. DePaolo also agrees not to own any equity interest in, or to be an officer, director or employee of, any business organization licensed as an insurance agent, consultant or adjuster in Oregon. In consideration of this stipulation, the Director agrees not to impose the proposed civil penalty.

Michael J. DePaolo hereby agrees and stipulates to the Findings of Fact, Conclusions of Law, Stipulation and Waiver, and agrees to the entry of the Final Order that follows.

/s/ Michael J. DePaolo
Michael J. DePaolo
Date: October 18, 2001

Having read and reviewed the above Findings of Fact, Conclusions of Law and Stipulation and Waiver, the Director hereby makes the following order.

**FINAL ORDER**

IT IS HEREBY ORDERED that the insurance agent's license of Michael J. DePaolo be and is revoked.

DATED this 22nd day of October, 2001.

/s/ Mary C. Neidig
MARY C. NEIDIG, Director
Department of Consumer and
Business Services