STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of **Kathy Holland** and **Holland Insurance Agency**.	)	**FINAL ORDER**
	)	Case No. INS 03-03-012

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 Kathy Holland (Holland) and Kathy Holland dba Holland Insurance Agency (HIA) (collectively referred to hereinafter as the parties).

On March 19, 2003, the director issued a Notice of Proposed Action, pursuant to ORS 183.415 and related rules. The notice informed the parties that the director proposed to take certain enforcement action against them, that they were entitled to a hearing, and that they had to request a hearing in writing within 21 days if they wanted a hearing. The notice also informed the parties that the record of the proceeding then to date, including the designated portion of the Insurance Division's file on the parties, would automatically become part of the contested case record for purposes of proving a prima facie case if the parties did not request a hearing within the time allowed to make the request.

The director did not receive a request for a hearing.

The director reviewed the designated portion of the Insurance Division's investigation file on the parties and found that it proves a prima facie case.

Therefore, director now makes the following final decision in this proceeding in accordance with ORS 731.248 and 183.470, and related rules.

Findings of Fact and Conclusions of Law

Licensing

Holland has been licensed in Oregon as an resident insurance agent since 6/14/95. Holland's current license number is 607824. Holland's last recorded address was in Oregon City, Oregon.

HIA has been licensed in Oregon as a resident insurance agent from 11/13/98 to 11/30/01 and since 12/14/01. HIA 's current license number is 810319. HIA is a sole proprietorship. Holland is the owner of, as well as an individual licensee employed by or contracted with, HIA. HIA's last recorded address was in Oregon City, Oregon.

Failure to Respond to Director

Holland violated ORS 731.296 in two instances by engaging in the following conduct:

1. On 8/8/02, the Insurance Division received by fax from Rachel M. Kaminski (Kaminski) of Oregon City, Oregon a written complaint. Kaminski complained that on or about 3/7/02 Holland issued to Kaminski a binder for homeowners insurance provided by Austin Mutual Insurance Company (AMIC), also on or about 3/28/02 Kaminski caused to be sent to Holland a check for payment of the premium for the insurance, and on or about 4/8/02 Holland deposited the check, but that AMIC had never received from Holland any application or premium for the insurance, and thus AMIC did not issue any policy. On 8/15/02, the Insurance Division mailed by regular mail a letter to Holland at her last recorded business address of 1017 Molalla Avenue Suite 5, Oregon City, OR 97045 requesting Holland respond to Kaminski's complaint by 9/5/02. On 10/11/02, Holland called the Insurance Division, in response to a call from the Insurance Division about a different matter, saying, *inter alia*, that mail should be sent to her residence mailing address of PO Box 1273, Oregon City, OR 97045. On 10/17/02, the Insurance Division mailed by certified mail another letter to Holland at her residence mailing address of PO Box 1273, Oregon City, OR 97045 informing Holland that the Insurance Division had not received the information requested, and again requested the information by 10/31/02. On or about 11/1/02, Holland or someone on her behalf signed for the last letter. The Insurance Division has not received any response from Holland.

2. On 9/26/02, the Insurance Division received by e-mail from Edward Bowen (Bowen) of Oregon City, Oregon a written complaint. Bowen complained that on or about 7/02 Bowen issued a check in the amount of $443.25 to Holland for payment

of the premium for automobile insurance to be provided by Metropolitan General Insurance Company (MetGen), also on or about 7/02 Holland deposited the check, on 7/22/02 Holland sent to MetGen an electronic application stating that Holland collected from Bowen only $374.25, MetGen did not receive certain information related to the application, and therefore MetGen canceled the policy on 9/14/02. On 10/1/02, the Insurance Division mailed by regular mail a letter to Holland at her last recorded business address of 1017 Molalla Avenue Suite 5, Oregon City, OR 97045 requesting Holland respond to Bowen's complaint by 10/22/02. On 10/11/02, Holland called the Insurance Division, in response to a call from the Insurance Division, saying, *inter alia*, that mail should be sent to her residence mailing address of PO Box 1273, Oregon City, OR 97045. On 10/14/02, the Insurance Division mailed by first class mail another letter to Holland at her residence mailing address of PO Box 1273, Oregon City, OR 97045 informing Holland that the Insurance Division had not received the information requested, and again requested the information by 10/31/02. On 11/26/02, the Insurance Division mailed by certified mail another letter to Holland at her residence mailing address of PO Box 1273, Oregon City, OR 97045 informing Holland that the Insurance Division had not received the information requested, and again requested the information by 12/10/02. On or about 11/27/02, Holland or someone on her behalf signed for the last letter. The Insurance Division has not received any response from Holland.

Failure to Pay Civil Penalty Assessed by Director

Holland violated ORS 744.074(1)(o) by engaging in the following conduct. On 9/18/02, Holland signed the Stipulation portion of a Stipulation and Final Order (document), case number 02-08-001, admitting to certain violations, and agreeing to pay a civil penalty of $1,500 by 12/20/02. On 9/18/02, Holland mailed the document to the Insurance Division. On 9/20/02, the Insurance Division received the document. On 9/30/02, the director signed the Final Order portion of the document. On 12/23/02, and again on 12/31/02, the Insurance Division called and left a voice mail message for Holland informing her that the civil penalty was due by 12/20/02 but the Insurance Division did not receive it. The Insurance Division did not

receive any response to the telephone messages. On 12/31/02, the Insurance Division mailed, by certified mail and first class mail, a letter to Holland extending the due date to 1/31/03. On 2/3/03, the letter mailed by certified mail was returned unclaimed. The Insurance Division has not received payment of the civil penalty, or any response about the civil penalty, from Holland.

Action Against Agency for Acts of Agent

HIA is subject to enforcement action pursuant to ORS 744.074(3) because Holland violated the laws specified above; such violations were known or should have been known by Holland as the owner of HIA; and such violations were either or both not reported to the director or corrective action was not taken by HIA.

Order

Pursuant to ORS 744.074(1), the Oregon licenses as an insurance agent issued to Holland and HIA shall be revoked on the date of this order.

Notice of Judicial Review

Pursuant to ORS 183.480 and 183.482, the parties may request the Oregon Court of Appeals to review this order by filing a written petition for judicial review with the court within 60 calendar days after the date this order was sent to the parties.

Dated May 6, 2003

/s/ Cory Streisinger
Cory Streisinger
Director
Department of Consumer and Business Services

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