STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of **National Christmas Tree Association**.	)	**CEASE AND DESIST ORDER**
	)	Case No. INS 03-06-008

The Director of the Department of Consumer and Business Services (director) hereby issues this cease and desist order, pursuant to Oregon Revised Statutes (ORS) 731.252, to National Christmas Tree Association (NCTA) because the director has reason to believe that NCTA has violated, is violating, or is about to violate the Insurance Code as specified herein.

Findings of Fact

Licensing Information

NCTA has never been licensed in Oregon as a nonresident insurance agent. NCTA's principal business address is located in St. Louis, Missouri.

Transacted Insurance in Oregon Without a License and for Unauthorized Insurers

NCTA violated ORS 744.051(1)(a) (1999), 744.053, and 746.310(1) by engaging in the following conduct.

Since 1988, the National Christmas Tree Association (NCTA) has made insurance available to its members by procuring, either directly from insurers or indirectly from managing general agents of the insurers, master policies. The policies were issued to NCTA but provided property or liability insurance or both to each member of NCTA that purchased coverage under a master policy. A certificate was issued to each insured member of NCTA as evidence of the insurance purchased.

From 10/97 to 9/98, the liability insurance was provided by General Agents Insurance Company of America aka Gainsco (Gainsco) under master policy number GPP640354, and the property insurance was provided by Lloyds of London under an unknown master policy number. From 10/98 to 9/99, the liability insurance was provided by Gainsco under master policy number GPP640410, and the property

insurance was provided by Lloyds of London under an unknown master policy number. From 10/99 to 9/00, the liability and property insurance were both provided by Scottsdale Insurance Company (Scottsdale) under master policy number CPS0312266 JV. From 10/97 to 9/00, Financial Guarantee Underwriters, Inc. (FGU) was the managing general agent of Gainsco, Lloyds of London, and Scottsdale, for NCTA's insurance program.

From 10/00 to 9/01, the liability and property insurance were both provided by Terra Nova Insurance Company, Ltd. (Terra Nova), now known as Markel International Insurance Company Limited, under master policy number TNP52114. From 10/01 to 9/02, the liability and property insurance were both provided by Terra Nova under master policy number 186P21204. From 10/00 to 9/02, Myron F. Steves and Company (MFSC) was the managing general agent of Terra Nova for NCTA's insurance program.

From 7/97 to 9/02, NTCA, and Peter C. Hesslink (Hesslink) on behalf of New Soules Insurance Agency, Inc. dba Soules Insurance Agency, Inc. (SIA), marketed the insurance directly to NCTA's members in Oregon. NCTA sent to its members in Oregon letters and marketing brochures informing the members of the availability, advantages, and brief description of the terms, of the property and liability insurance provided under the current master policy; urging the members to buy the insurance, and urging the members to call Hesslink, on behalf of SIA, for more information. In 8/00, Hesslink, on behalf of SIA, mailed to NCTA's members in Oregon a letter dated 8/11/00 encouraging them to renew their membership in NCTA so they could purchase the insurance. Later Hesslink, on behalf of SIA, mailed to NCTA's members in Oregon a letter dated 9/17/00 informing them that the property and liability insurance that used to be provided by Scottsdale would be provided by Terra Nova. The letter also described some of the terms of the insurance, and enclosed applications for the insurance. As recent as 3/02, NCTA also provided at its website at http://www.realchristmastrees.org an extensive description of the terms of the insurance and urged members to buy the insurance through Hesslink. Hesslink, SIA, or the general agent, issued a certificate to each

insured member of NCTA as evidence of the insurance purchased.

As a result, from 10/97 to 9/02, Hesslink, on behalf of SIA, sold about 78 certificates for liability insurance to NCTA's members in Oregon. Hesslink did not sell any certificates for property insurance to NCTA's members in Oregon.

At all relevant times, NCTA, Hesslink, SIA, FGU, and MFSC were not licensed in Oregon as nonresident insurance agents or surplus lines agents. Also, Gainsco, Lloyds of London, Scottsdale, and Terra Nova were not licensed in Oregon as insurers, and were not authorized to transact insurance in Oregon as eligible surplus lines insurers because the soliciting agents and managing general agents involved in the transactions were not licensed in Oregon as a surplus lines agents or otherwise complied with the requirements of Oregon's surplus lines law, ORS 735.400 *et seq*.

Order

Pursuant to ORS 731.252, NCTA, and its successors, shall immediately cease and desist from violating the above provisions of the Oregon Insurance Code.

Notice of Right to a Hearing and Judicial Review

The party has the right to a hearing pursuant to ORS 731.252. If a party wants a hearing, then the party must send to the Insurance Division a written request for a hearing so that the Insurance Division *receives* the request within **20 days** from the date this order was *sent* to the party. The party may send the request by delivering or mailing it to the Insurance Division at 350 Winter Street NE, Room 440, Salem, Oregon, 97301-3883; or faxing it to 503-378-4351; or e-mailing it to mitchel.d.curzon@state.or.us.

If the Insurance Division receives from or on behalf of a party a written request for a hearing by the due date, then the Insurance Division will refer the request to the Office of Administrative Hearings (OAH). OAH will schedule the hearing and notify the party of the date and location of the hearing and other related information. An administrative law judge of OAH will conduct the hearing and issue a proposed order. The hearing will be conducted in accordance with the Oregon Administrative Procedures Act, ORS Chapter 183; and the Attorney

General's Model Rules, OAR 137-003-0501 *et seq*. A party that is an individual may represent him or her self at a hearing; or may be represented by an attorney licensed in Oregon. A party that is a corporation, partnership, limited liability company, unincorporated association, trust, or government agency must be represented at a hearing by an attorney licensed in Oregon except as otherwise provided by law.

If the Insurance Division does not receive from or on behalf of a party a written request for a hearing by the due date, then this order will become final by default. If this order becomes final by default, then the designated portion of the Insurance Division's investigation file on the party automatically becomes part of the contested case record upon default for the purpose of proving a prima facie case.

Also, if this order becomes final by default, then the party may request the Oregon Court of Appeals to review this order pursuant to ORS 183.480 and 183.482 by filing a written petition for judicial review with the court within 60 calendar days after the date this order was *sent* to the party.

Dated August 7, 2003

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

//
//
//