

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

In the Matter of **New Soules Insurance Agency, Inc.** ) **STIPULATION** and  
**dba Soules Insurance Agency, Inc.** ) **FINAL ORDER**  
 ) Case No. INS 03-06-010

**STIPULATION**

The Director of the Department of Consumer and Business Services (director) commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take enforcement action against New Soules Insurance Agency, Inc. dba Soules Insurance Agency, Inc. (SIA).

SIA enters into this Stipulation, pursuant to ORS 183.415(5), to conclude this proceeding without further administrative or judicial proceedings.

SIA waives the right to receive a notice of proposed action, to receive a notice of the rights of a party and procedures in contested cases, to have a hearing, to be represented by an attorney at the hearing, to receive a proposed order, to file exceptions to the proposed order, and to judicial review of the Final Order.

SIA stipulates to the following facts, conclusions, and action; and consents to issuance of a Final Order incorporating this Stipulation.

**Facts and Conclusions**

Licensing Information

SIA has been licensed in Oregon as a nonresident insurance agent since 10/11/02. SIA's principal business address is located in Conroe, Texas.

Transacted Insurance in Oregon Without a License and for Unauthorized Insurers

SIA violated ORS 744.051(1)(a) (1999), 744.053, and 746.310(1) in 78 instances 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 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; encouraging the members to buy the insurance, and encouraging 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 encouraged 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. SIA received about \$11,151.00 as gross commissions and retained about \$7,471.17 as net commissions.

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.*

### **Action**

Pursuant to ORS 731.988, SIA shall pay a civil penalty of \$16,000. 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 to the Insurance Division at 350 Winter Street NE, Room 440, Salem, OR 97301-3883, or mailed to the Insurance Division at PO Box 14480, Salem, OR 97309-0405. The payment shall be received by the Insurance Division by the date of the Final Order.

Dated August 29, 2003

/s/ Andrew M. Smith  
[Signature of Representative]

Andrew M. Smith  
[Printed Name of Representative]

Vice-President, Secretary, Treasurer  
[Printed Title of Representative]

New Soules Insurance Agency, Inc.  
dba Soules Insurance Agency, Inc.

**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 October 8, 2003

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

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