STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of **Bieker Agency, Inc.**	)	**STIPULATION** and
	)	**FINAL ORDER**
	)	Case No. INS 04-12-003

STIPULATION

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 Bieker Agency, Inc. (Bieker Agency).

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

Bieker Agency waives all rights relative to an administrative hearing and judicial review thereof.

Bieker Agency does not stipulate to the following facts and conclusions, but also does not contest that the director can prove, by at least a *prima facie* case, such facts and conclusions.

Bieker Agency stipulates to the following action.

Bieker Agency consents to the issuance of a final order incorporating this stipulation.

Facts and Conclusions

Licensing Information

Bieker Agency has been licensed in Oregon as a resident insurance agent since 9/24/91. Bieker Agency's last recorded business address is located in Portland, Oregon.

Failed to Timely Deposit Premium into Trust Account

Bieker Agency violated OAR 836-074-0025 in two instances by engaging in the following conduct. OAR 836-074-0025 requires a person that is licensed in Oregon as a resident insurance agent to deposit into an insurance premium trust account

all premium received by the agent within seven days after receiving the premium, when deposit is required.

1. On or about 12/3/02, Michael P. Bieker (Bieker), on behalf of Bieker Agency, received from Enrico Napoli (Napoli), on behalf of NW Life Tenure, Inc. (NWLT) of Portland, Oregon, an application for a contractor's license surety bond, and general liability insurance policy, both to be issued or bound by Bieker, on behalf of Bieker Agency, on behalf of CBIC. On the same date, Bieker also received from Napoli, on behalf of NWLT, a check number 10352, dated 12/3/02, in the amount of $500, and made payable to Bieker Agency, as payment of part of the premium for the bond and policy. Bieker Agency was required to deposit the premium into its trust account by 12/10/02, which was seven days after 12/3/02. On 4/3/03, 114 days late, Bieker Agency deposited the check into its insurance premium trust account.

2. On 12/4/03, Bieker Agency received from Builders and Tradesmen Insurance Service (BTIS), on behalf of Navigators Insurance Company, a check, number 4183, dated 11/28/03, in the amount of $742.50, as payment of unearned premium to be paid to various insureds. Bieker Agency was required to deposit the premium into its trust account by 12/11/03, which was seven days after 12/4/03. On 1/9/04, 29 days late, Bieker Agency deposited the check into its insurance premium trust account.

Prematurely Withdrew Premium From Trust Account

Bieker Agency violated OAR 836-074-0025(5) in one instance by engaging in the following conduct. OAR 836-074-0025(5) prohibits a person licensed in Oregon as a resident insurance agent from withdrawing from an insurance premium trust account premium that had not been deposited into the trust account. On 9/25/03, Bieker Agency received from Ty Wheatley (Wheatley) doing business as Wheatley's General Contracting, of Junction City, Oregon, a check, number 1349, dated 9/25/03, in the amount of $450.00, as payment of part of the premium for an insurance policy, number GAM05076, to be issued to Wheatley through Bieker Agency and BTIS by Navigators. On 10/13/03, Bieker Agency issued a check, number 100962, dated 10/13/03, in the amount of $3,718.75, and made payable to

BTIS, as payment of the net premium for various insureds. One of the insureds was Wheatley. The check was drawn on Bieker Agency's trust account. As of that date, Bieker had received from Wheatley $450 but had paid on behalf of Wheatley $1,025.00. Thus, Bieker Agency withdrew from its trust account premium that had not been deposited into its trust account.

Failed to Timely Return Premium to Insured

Bieker Agency violated OAR 836-074-0025 in one instance by engaging in the following conduct. OAR 836-074-0025 requires a person that is licensed in Oregon as a resident insurance agent and received premium that is owed to an insured to pay the premium to the insured within 30 days after receiving the premium. As described above, on 12/4/03, Bieker Agency received from BTIS a check in the amount of $742.50 as payment of unearned premium for various insureds. One of the insureds was Wheatley. Of the $742.50, $80.40 was owed to Wheatley. Bieker Agency was required to pay the unearned premium to Wheatley by 1/3/04, which was 30 days after 12/4/03. On 1/27/04, 24 days late, Bieker Agency paid the unearned premium to Wheatley.

Action

Pursuant to ORS 731.988, Bieker Agency is assessed a civil penalty of $1,500.00. 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 the Labor and Industries Building, 350 Winter Street NE, Room 440 (4th Floor), Salem, Oregon; or mailed to the Insurance Division at PO Box 14480, Salem, OR 97309-0405. The payment is due on, and shall be received by the Insurance Division by, the date of the final order.

Dated January 4, 2005

/s/ Francis P. Bieker
[Signature of Representative]

Francis P. Bieker
[Printed Name of Representative]

President
[Printed Title of Representative]

Bieker 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 March 2, 2005

/s/ Joel Ario
Joel Ario
Administrator
Insurance Division
Department of Consumer and Business Services

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