STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of **Withnell Motor Company**	)	**STIPULATION** and
	)	**FINAL ORDER**
	)	Case No. INS 05-04-020

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 Withnell Motor Company (Withnell Motor).

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

Withnell Motor waives all rights relative to an administrative hearing and judicial review thereof.

Withnell Motor stipulates to the following facts, conclusions, and action; and consents to the issuance of a final order incorporating this stipulation.

Facts and Conclusions

Licensing Information

Withnell Motor has been licensed in Oregon as a resident business entity insurance producer since . Withnell Motor's last recorded address is located in Salem, Oregon.

Demonstrated Incompetence, Untrustworthiness, or Financial Irresponsibility in Business

Withnell Motor violated ORS 744.074(1)(h) in six instances by engaging in the following conduct. ORS 744.074(1)(h) prohibits a person from using a fraudulent, coercive or dishonest practice, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in Oregon or elsewhere. Withnell Motor demonstrated incompetence, untrustworthiness, or financial irresponsibility, in the conduct of insurance business in Oregon. From 3/20/04 to

9/23/04, Withnell Motor overcharged three insureds $35 each, for a total of $105, as premium for asset protection insurance, commonly called GAP insurance, provided by American National Property and Casualty Company. Subsequently, after the Insurance Division conducted an investigation, Withnell Motor refunded the overcharged premium to each insured. The name of the insured, the date the insured applied for the insurance, the policy number, the amount Withnell Motor charged, the amount of premium that Withnell Motor should have charged, and the date Withnell Motor refunded the overcharged premium, in each instance is as follows:

Insured	Date of Application	Policy Number	Amount of Premium	Amount Charged	Diff.	Date of Refund
Early	9/8/04	PHA0038489	$435	$470	$35	2/15/05
Bassenbacher	10/2/04	PHA0039581	$400	$435	$35	2/15/05
Lowther	10/11/04	PHA0039582	$400	$435	$35	2/15/05
Total					$105	

Action

Pursuant to ORS 731.988, Withnell Motor is assessed a civil penalty of $1,000. 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 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 May 4, 2005

/s/ Rex O. Mullins
[Signature of Representative]

Rex O. Mullins
[Printed Name of Representative]

Finance Director
[Printed Title of Representative]

Withnell Motor Company

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 May 23, 2005

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

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