

Association (OIGA). ORS 734.570(3) requires OIGA to assess its member insurers an amount necessary to pay OIGA's expenses. If OIGA assesses its member insurers, then a member insurer must either recoup the assessment from its insureds pursuant to ORS 734.579(1), or expense any assessment not recouped pursuant to OAR 836-031-0855(7). However, if a member insurer chooses to recoup its assessment from its insureds, it may not recoup more than its assessment. If a member insurer recoups more than its assessment, then it must either payback the excess to insureds or carry over the excess pursuant to OAR 836-031-0855(9). If a member insurer carries over the excess, then it must either payback the excess to insureds, or, if permitted, pays the excess to OIGA pursuant to OAR 836-031-0855(10). A member insurer must annually certify to the director the total amount recouped during the previous year and that the amount recouped does not exceed the assessment pursuant to ORS 734.579(2). A member insurer must file the certification by June 1 of each year pursuant OAR 836-031-0855(8).

At all relevant times, Williamsburg National was a member insurer of OIGA. In 2003, OIGA assessed Williamsburg National \$139. On 5/27/05, Williamsburg National filed with the director its certification for 2004 stating that it had expensed the entire \$139 during 2004 and did not recoup from its insureds any of the assessment in 2004. Subsequently, Williamsburg National filed its certifications for 2005 to 2009 each continuing to state, among other things, that it did not recoup from its insureds any of the assessment and did not have any recouped amount to dispose of pursuant to ORS 734.579(1), OAR 836-031-0855(7), or OAR 836-031-0855(9). However, these certifications were incorrect to the extent that they stated that Williamsburg National did not recoup from its insureds any of the assessment in the respective years. Williamsburg National began recouping the assessment from insureds in 2004. Williamsburg National recouped the assessment by 7/1/07. However, Williamsburg National continued to charged insureds for the assessment in 2008 to 2010. In July 2010, the director informed Williamsburg National that it could not continue to charge insureds for the assessment. Williamsburg National attempted to take corrective action by reprogramming its

computerized rating system to stop charging the assessment, but the reprogramming did not prevent charging some insureds for the assessment. As a result, Williamsburg National continued to charged insureds for the assessment during the remainder of 2010. From 2007 to 2010, Williamsburg National collected a total of \$1,311, or \$1,172 more than the assessment. In 2010, Williamsburg repaid \$544 of the excess to insureds. In April 2011, the director began investigating Williamsburg National. Williamsburg National took further corrective action to prevent charging all insureds for the assessment. On 6/24/11, Williamsburg National repaid the remaining \$767 of the excess to insureds.

Action

Pursuant to ORS 731.988(1), Williamsburg National is assessed a civil penalty of \$5,000. 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 or mailed to the Insurance Division at the Labor and Industries Building, 350 Winter Street NE Room 300, Salem, Oregon 97301-3880; 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 November 4, 2011

/s/ Joseph E. Mattingly

[Signature of Representative]

Joseph E. Mattingly

[Printed Name of Representative]

President

[Printed Title of Representative]

Williamsburg National Insurance 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 November 21, 2011

/s/ Scott L. Harra

Scott L. Harra

Acting Director

Department of Consumer and Business Services