

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

In the Matter of **David B. Siefarth** and) **STIPULATION and**
Siefarth Insurance Services, Inc.) **FINAL ORDER**
) Case No. INS 12-10-007

STIPULATION

The Director of the Oregon Department of Consumer and Business Services (director) , by an through the Insurance Division, commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take enforcement action against David B. Siefarth (Siefarth) and Siefarth Insurance Services, Inc. (Siefarth Insurance).

Siefarth desires to conclude this proceeding without a hearing by entering into this stipulation pursuant to ORS 183.417(3).

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

Siefarth stipulates to the following facts, conclusions, action, and to the issuance of a final order incorporating this stipulation.

Facts and Conclusions

Licensing Information

Siefarth has been licensed in Oregon as a resident individual insurance producer since 7/5/91. Siefarth's license is scheduled to expire on 6/30/13. Siefarth's license number is 600208, and his NAIC national producer number is 70483. Siefarth's last recorded residence street address is 3250 Turner Road SE, Salem, OR 97301-2033; and telephone number is 503-998-2994. Siefarth's last recorded business address is Siefarth Insurance Services, Inc., PO Box 255, Salem, OR 97308-0255; and telephone number is 503-998-2994.

Siefarth Insurance has been licensed in Oregon as a resident business entity insurance producer from 8/14/02 to 8/31/12. Siefarth Insurance's license expired on

8/31/12. Siefarth Insurance's license number is 813511, its NAIC national producer number is 8166866, and its FEIN number is 02-0623746. Siefarth Insurance's last recorded business address is 280 Court Street NE Suite 220, Salem, OR 97301-3443; and telephone number is 503-540-3180.

Misappropriated or Withheld Money or Property Received in Course of Insurance Business

Siefarth is subject to enforcement action pursuant to ORS 744.074(1)(d) because of the following circumstances. ORS 744.074(1)(d) permits the director to take any authorized enforcement action against a person who has applied for a license or is licensed in Oregon as an insurance producer if the person improperly withheld, misappropriated, or converted, any moneys or properties received by the person in the course of doing insurance business. Siefarth withheld, misappropriated or converted insurance premiums in the following circumstances.

Sometime between 2/4/11 and 2/9/11, Siefarth received from Siuslaw Bank a check, number 11674, dated 2/4/11, in the amount of \$22,625.00 as payment of the renewal premium for two commercial insurance policies, numbers 27-CUL-2-1543887 and 27-BOP-2-1543887, for the period from 12/1/10 to 12/1/11, issued by Eagle West Insurance Company (Eagle West) to Willamette Gardens Apartments LLC (Willamette Gardens) of Portland, Oregon. The renewal gross premium was \$22,238.00. On 2/9/12, Siefarth deposited the check into Siefarth Insurance's insurance premium trust account, number 261205, at NW Preferred Federal Credit Union. Since Eagle West considered Willamette Gardens to be an insurer direct billed account, Siefarth was required to pay Eagle West the entire gross premium without any deductions for advance payments or commissions either immediately after receipt or at least within 45 days after the end of the month in which the policy became effective. The policy became effective 12/1/10. Thus, Siefarth was required to pay Eagle West \$22,238.00 on or about 2/9/11 or at least by 2/14/11. Siefarth paid to Eagle West \$6,095 on or about 1/28/11, \$12,027.00 on or about 3/3/11, and \$111.00 on 8/10/11, and \$4,075.00 on or about 9/6/11 for a total of \$22,378.00. Thus, Siefarth withheld from Eagle West \$16,143.00 from at least

2/15/11 to 3/3/11, and of that amount \$4,116.00 from 3/4/11 to 8/10/11, and of that amount \$4,005.00 from 8/11/11 to 9/6/11.

Sometime between 8/27/11 and 9/8/11, Siefarth received from “Steele Street Partners dba Steele Street Surgical” (Steel Street) of Portland, Oregon, a check, number 4402, dated 8/27/11, in the amount of \$2,740.00 as payment of the premium for a commercial insurance policy, number 680 1B64064A, for the period from 9/20/11 to 9/20/12, issued by Travelers Casualty Insurance Company of America (Travelers) to Steele Street. On 9/8/11, Siefarth deposited the check into Siefarth Insurance’s insurance premium trust account, number 261205, at NW Preferred Federal Credit Union. Because this policy was “direct bill,” Siefarth was required to send all of the money to Travelers. Siefarth has not sent any of the money to Travelers. As of 12/31/11, there was only \$6.29 remaining in the trust account. Thus, Siefarth misappropriated \$2,740.00 from Travelers.

Sometime between 10/30/11 and 11/3/11, Siefarth received from Pacific Winds Condominiums, LLC dba New Pacific Winds Condominiums (New Pacific Winds) of Lincoln City, Oregon, a check, number 2851, dated 10/30/11, in the amount of \$15,500.00 as payment of the premium for two commercial insurance policies, numbers E11NY12380 and E11NC12390, for the period from 10/17/11 to 10/17/12, to be issued by Equinox Underwriting, a Division of Price Forbes & Partners Ltd, on behalf of certain underwriters at Lloyd’s, London, to New Pacific Winds. On 11/3/11, Siefarth deposited the check into Siefarth Insurance’s insurance premium trust account, number 261205, at NW Preferred Federal Credit Union. The gross premium was \$15,850.00 and the net premium was \$14,340.00, and Siefarth’s commission was \$1,500.00. Siefarth was required to send the net premium of \$14,340.00 to Bliss & Glennon, Inc. (B&G) by 11/6/11. From 10/31/11 to 12/13/11, B&G sent to Siefarth multiple communications requesting payment of the net premium. Siefarth did not send any of the money to B&G. On 12/6/11, Equinox issued a notice of cancellation for non payment of premium to be effective 12/16/11. On 12/16/11, New Pacific Winds paid an additional \$14,340.00 to B&G to reinstate the policies. Siefarth did not return any of the money to New Pacific Winds. As of

12/31/11, there was only \$6.29 remaining in the trust account. Thus, Siefarth misappropriated \$15,500.00 from New Pacific Winds.

Commingled Premium with Other Money in Trust Account

Siefarth is subject to enforcement action pursuant ORS 744.083(2) because of the following circumstances. ORS 744.083(2) prohibits a person that is licensed in Oregon as an resident insurance producer from commingling or otherwise combining premium with other money in an insurance premium trust account, unless permitted otherwise. In 2011, Siefarth deposited at least \$17,974.14 into Siefarth Insurance's insurance premium trust account, number 261205, at NW Preferred Federal Credit Union. The money deposited was not for the payment or refund of premium for insurance, or for any additional purpose permitted by ORS 744.083(3). After depositing the money, Siefarth withdrew the money in cash or issued checks to pay personal and business expenses.

Failed to Notify Director of Change of Business Address

Siefarth is subject to enforcement action pursuant to ORS 744.068(4)(a) because of the following circumstances. ORS 744.068(4)(a) requires a person licensed in Oregon as an insurance producer to notify the director of a change of address or telephone number of the principal place of business or any location at which the insurance producer transacts business not later than the 30th day after the date of the change. On or about 9/1/11, Siefarth moved his business address from 280 Court Street NE Suite 220, Salem, OR 97301-3443 to 3843 W 11th Avenue, Eugene, OR 97402-3066. Siefarth was required to notify the director of the change of business address by 10/3/11. Siefarth did not notify the director of this change of business address. Subsequently, on an unknown date, Siefarth moved his business address from 3843 W 11th Avenue, Eugene, OR 97402-3066 to PO Box 255, Salem, OR 97308-0255. Siefarth was required to notify the director of the change of business address by an unknown date. On 5/14/12, more than 30 days after Siefarth changed this business address, Siefarth notified the director of this change of business address.

Failed to Timely Respond to Director's Inquiry

Siefarth is subject to enforcement action pursuant ORS 731.296 because of the following circumstances. ORS 731.296 requires a person who is licensed in Oregon in any capacity under the Insurance Code to promptly and truthfully respond to an inquiry from the director. On 5/16/12, the director mailed by certified mail a letter dated 5/16/12 to Siefarth at multiple addresses. The letter requested Siefarth to provide certain information to the director by 6/6/12. Sometime between 5/16/12 and 5/29/12, Siefarth received the letter. Siefarth did not respond to the letter until 10/12/12 when Siefarth requested to meet with the director and answered the questions asked in the letter.

Failed to Report Criminal Prosecution

Siefarth is subject to enforcement action pursuant to ORS 744.089(2) because of the following circumstances. ORS 744.089(2) requires a person who is licensed in Oregon as an insurance producer to notify the director of any criminal prosecution of the person; and provide a copy of the initial complaint, order resulting from the hearing and any other relevant legal documents, within 30 days of the pretrial hearing. On 7/25/12, in the Circuit Court for the State of Oregon for Marion County, in the criminal case *State of Oregon v. David Blaine Siefarth*, case number 12C45503, Siefarth was charged with committing one count of the crime of aggravated theft in the first degree, a felony, pursuant to ORS 164.057. Siefarth committed the crime by misappropriating the \$15,500.00 from New Pacific Winds as described above. On 7/25/12, Siefarth appeared before the court to respond to the charges. On 9/10/12, Siefarth pled guilty to the charge and was convicted of the crime. Siefarth was required to notify the director of the criminal prosecution, and provide a copy of the specified documents, by 8/24/12. Siefarth notified the director of the prosecution on 10/12/12, but has not provided a copy of the specified documents.

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Convicted of Crime

Convicted of Felony Involving Dishonesty or Breach of Trust

Siefarth is subject to enforcement action pursuant to ORS 744.074(1)(f) and ORS 731.428(4) because of the following circumstances. ORS 744.074(1)(f) permits the director to take any authorized enforcement action against a person who has applied for a license or is licensed in Oregon as an insurance producer if the person was convicted of a misdemeanor involving dishonesty or breach of trust, a felony, or an offense punishable by death or imprisonment under the laws of the United States. ORS 731.428(4) requires the director to revoke, suspend, or refuse to renew, the Oregon insurance producer license issued to a person who was convicted of, among other things, a felony involving dishonesty or a breach of trust. OAR 836-071-0321(1) defines a felony involving dishonesty as “includ[ing] but not limited to any offense constituting or involving theft, burglary, perjury, bribery, forgery, counterfeiting, a false or misleading oral or written statement, deception, fraud, a scheme or artifice to deceive or defraud, a material misrepresentation or the failure to disclose material facts.” On 9/10/12, Siefarth was convicted of one count of the crime of aggravated theft in the first degree, a felony, as described above.

Enforcement Action Against Business Entity for Acts of Individual

Siefarth Insurance is subject to enforcement action pursuant to ORS 744.074(3) because of the following circumstances. ORS 744.074(3) permits the director to only revoke, suspend, refuse to issue, or refuse to renew, the Oregon business entity insurance producer license issued to a business entity if the director determines that an individual violated a provision of the Oregon Insurance Code or related administrative rules while the individual was licensed in Oregon as an individual insurance producer and was employed by or otherwise authorized to act for the business entity, and the partners, officers, or managers of the business entity knew or should have known of the individual’s violation but the partners, officers, or managers did not report the violation to the director or did not take any corrective action or both. Siefarth was licensed in Oregon an insurance producer since 7/5/91. Siefarth Insurance was organized as a corporation under the laws of Oregon from

6/17/02 to 8/17/12. Siefarth was the president of Siefarth Insurance since 6/17/02, and was employed by or otherwise authorized to act for Siefarth Insurance as an insurance producer since 8/14/02. Siefarth, as an insurance producer, violated the provisions of the Oregon Insurance Code or related administrative rules at various times in 2011 and 2012 as described above. Siefarth, as an officer of Siefarth Insurance, knew or should have known of such violations because he committed the violations but did not report such violations to the director and did not take any corrective action.

Action

Pursuant to ORS 731.428(4) and ORS 744.074(1), Siefarth's Oregon resident individual insurance producer license is revoked on the date of this order.

Pursuant to ORS 744.074(3), Siefarth Insurance's expired Oregon resident business entity insurance producer license is revoked on the date of this order.

As consideration for the director not continuing to investigate or taking additional enforcement action against Siefarth and Siefarth Insurance, Siefarth and Siefarth Insurance agree to never apply for any license authorized by ORS Chapter 744; or have any equity interest in, be an officer or director of, or be employed by or contracted with, any person that is issued any license authorized by ORS Chapter 744.

Dated November 2, 2012 /s/ David B. Siefarth
David B. Siefarth

Dated November 2, 2012 /s/ David B. Siefarth
[Signature of Representative]
David B. Siefarth
[Printed Name of Representative]
President
[Printed Title of Representative]
Siefarth Insurance Services, Inc.

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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 8, 2012

/s/ Louis Savage
Louis Savage
Insurance Commissioner

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