STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of: KENNETH HIX, Respondent.	Case No. INS-16-0327 ORDER TO CEASE AND DESIST, FINAL ORDER TO SUSPEND LICENSE FOLLOWED BY A PERIOD OF PROBATION, FINAL ORDER IMPOSING CIVIL PENALTY AND CONSENT TO ENTRY OF ORDER

The Director of the Department of Consumer and Business Services for the State of Oregon ("Director"), acting in accordance with Oregon Revised Statutes ("ORS") chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 744, 746, 748 and 750 ("Insurance Code") and specifically ORS 744.074, has conducted an investigation into KENNETH HIX ("Respondent").

Respondent wishes to resolve and settle this matter with the Director.

Now, therefore, as evidenced by the signature(s) subscribed on this Order, Respondent hereby CONSENTS to entry of this Order.

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Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

FINDINGS OF FACT

The Director FINDS that:

1. Respondent has been licensed as an Oregon resident insurance producer since August 31, 1990. Respondent's national producer number is 49707.

2. Division of Financial Regulation ("Division") conducted an investigation into the actions of the Respondent for replacing small amount (Under $15,000) insurance policies ("policies") for consumers.

3. Respondent was appointed as an agent with Old American Insurance Company ("Old American") from January 1, 2013 to April 10, 2015. Respondent sold small amount insurance policies to consumers.

4. Between June 1, 2015 and November 30, 2015, Respondent contacted consumers who bought Old American policies through him and replaced 69 Old American policies with policies from different carriers. Respondent received $16,376.20 in commission for replacing the Old American policies with policies from Transamerica Premier Life Insurance Company ("Transamerica").

5. In an interview on July 6, 2016, Respondent admitted to intentionally replacing Old American policies.

6. Consumers were not informed that the new policies would have a new contestability period of two years.

7. Many consumers received little or no return of premium from Old American because the policies were not held long enough to accumulate cash value. At least one consumer, R.B., believed her prior payments to Old American were transferred to pay her new policy premium with Transamerica. Premiums paid to Old American were not transferred to a new policy.

8. Respondent admitted that he did not make a reasonable inquiry concerning the consumer's insurance objectives, financial situation and needs, age and other relevant information. Respondent stated that "It's none of my business."

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CONCLUSIONS OF LAW

The Director CONCLUDES that:

9. No person shall make a false or fraudulent statement or representation on or relative to an application for insurance, or for the purpose of obtaining a fee, commission, money or benefit from an insurer or insurance producer under ORS 746.100.

10. Pursuant to Oregon Administrative Rules "(OAR") 836-080-0090, a person may not recommend to a consumer the purchase, sale or replacement of a life insurance policy, or any rider, endorsement or amendment to the policy, without reasonable grounds to believe that the recommendation or transaction is not unsuitable for the consumer based upon reasonable inquiry concerning the consumer's insurance objectives, financial situation and needs, age and other relevant information known by the person. Respondent violated OAR 836-080-0090 by failing to make a reasonable inquiry concerning consumer's situation when replacing the policies and failed to inform consumers that the contestability period would begin again.

11. Under ORS 744.074(1)(b), the Director may place a licensee on probation or suspend, revoke or refuse to issue or renew an insurance producer license and may take other actions authorized by the Insurance Code in lieu thereof or in addition thereto, for violating any insurance law. ORS 746.100 and OAR 836-080-0090 are insurance laws violated by Respondent.

12. Under ORS 744.074(1)(g), the Director may place a licensee on probation or suspend, revoke or refuse to issue or renew an insurance producer license for having been found to have committed any unfair trade practice related to insurance. Respondent violated ORS 744.074(1)(g) by intentionally replacing policies from previous employer with new policies without fully disclosing all the consequences of transferring policies to consumers.

13. Under ORS 731.988(1), the Director may impose a civil penalty of up to $1,000 per violation upon any individual who violates a provision of the Insurance Code.

14. Under ORS 731.988(2), in addition to the civil penalty set forth in subsection (1) of this section, any person who violates any provision of the Insurance Code may be required to forfeit and pay to the General Fund of the State Treasury a civil penalty in an amount determined by the director but not to exceed the amount by which such person

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profited in any transaction which violates any such provision, rule, order or judgment.

ORDERS

Now therefore, the Director issues the following Orders:

15. As authorized by ORS 731.252(1), the Director ORDERS Respondent to CEASE AND DESIST from violating any provision of the Insurance Code or the administrative rules promulgated thereunder.

16. The Director, pursuant to ORS 744.074(1)(b) and (g), hereby SUSPENDS Respondent's license for a period of thirty (30) days.

17. After the completion of the license suspension, the Director, pursuant to ORS 744.074(1)(b) and (g), ORDERS that Respondent's Resident Insurance Producer License include the following probationary conditions for the term of three years:

a. Respondent will obey all federal, state and local laws.

b. Respondent will comply with all applicable insurance statues, rules and regulations.

c. Respondent will notify the Director within fourteen days of all appointments with insurers or employment within the industry.

d. Respondent will notify the Director within fourteen days if there is a change in appointment or employer.

e. Respondent will complete four hours (two classes) of continuing education in ethics. One class must be completed and proof of completion submitted to the Director within 180 days of issuance of License. The second class must be completed and proof of completion submitted to the Director within 365 days of issuance of License. This continuing education requirement is in addition to any other continuing education requirements for maintenance of License.

f. The term of this probation will begin 30 days after the date of entry of this

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Order and continue for three years. The term of probation will end without further action by the Division unless the probation period is extended by the Director.

g. If Respondent fails to comply with the conditions of this License, Respondent agrees to notify the Division of the failure to meet the conditions and surrender the License immediately. If Respondent fails to surrender the License within seven days of providing notification to the Division or from the date that the Division notifies Respondent that the Director believes that there has been a violation of this Order, whichever is earlier, Respondent agrees that his License shall be revoked immediately.

18. Based upon the foregoing and in accordance with ORS 731.988(1), the Director ORDERS a CIVIL PENALTY of $100 for each of the 69 replaced policies for a total of $6,900.

19. Based upon the foregoing and in accordance with ORS 731.988(2), the Director ORDERS a FORFEITURE of the $16,376.20 in commissions received for replacing the Old American policies.

20. The Director agrees to SUSPEND the collection of $14,276.20 of the $23,276.20 CIVIL PENALTY and FORFEITURE assessed herein upon the condition that Respondent commits no new violations of the Oregon Insurance Law or any administrative rules adopted thereunder, and complies with the conditions of probation set out in this order.

21. If Respondent complies with all of the terms and conditions set out in this Order and commits no violations of the Oregon Insurance Code during the three year period from the date of issuance of this Order, the Director hereby agrees to WAIVE the $14,276.20 suspended amount.

22. The Director reserves the right to immediately assess and collect the $14,276.20 suspended amount upon a determination that Respondent has violated any

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term of this Order.

23. Respondent must pay the remaining $9,000 of the civil penalty. First payment of $250 is due at signing, prior to the entry of this Order. Thereafter, monthly payments are to be made on the 10th of every month commencing January 10, 2017 and will continue for thirty-five (35) months. Failure to make required payments will result in the entire fine, including the suspended portion, to become due immediately.

24. The Director reserves the right to immediately take enforcement action, pursuant to the procedures set forth in ORS 183.745, to impose the suspended amount Respondent violates any term of this Order.

SO ORDERED this 20th day of December, 2016.

PATRICK M. ALLEN, Director
Department of Consumer and Business Services

/s/ David Tatman
David C. Tatman, Chief of Enforcement
Division of Financial Regulation

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CONSENT TO ENTRY OF ORDER

I, Kenneth Hix, state that I have read the foregoing Order and that I know and fully understand the contents hereof; that the factual allegations stated herein are true and correct; that I have been advised of my right to a hearing, and that I have been advised of my right to be represented by counsel in this matter; that I voluntarily consent to the entry of this Order without any force or duress, expressly waiving any right to a hearing in this matter, as well as any rights to administrative or judicial review of this Order; that I understand that the Director reserves the right to take further actions against me to enforce this Order or to take appropriate action upon discovery of other violations of the Insurance Code by me; and that I will fully comply with the terms and conditions stated herein.

I understand that this Order is a public document.

/s/ Kenneth C. Hix

Signature

State of Oregon

County of Josephine

Signed or attested before me on this 5th day of December, 2016 by Kenneth Hix.

/s/ Deanna Jean Rodriguez

Notary Public

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