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

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| In the Matter of: | Case No. INS-18-0109 |
| MARVIN STEWART AND KATHIE STEWART,<br><br>Respondents. | FINAL ORDER TO CEASE AND DESIST, ORDER REVOKING LICENSES, 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 the 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 Marvin Stewart ("M. Stewart") and Kathie Stewart ("K. Stewart", collectively "Respondents") for misappropriating premium funds.

Respondents wish to resolve and settle this matter with the Director.

Now, therefore, as evidenced by the signature(s) subscribed in this Order, Respondents hereby CONSENT to entry of this Order.

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

## FINDINGS OF FACT

The Director FINDS that:

1. M. Stewart has been licensed in Oregon as a nonresident insurance producer since April 5, 2010. M. Stewart's national producer number is 1566000.

2. K. Stewart has been licensed in Oregon as a nonresident insurance producer since June 27, 2013. K. Stewart's national producer number is 16995765.

3. Midway LLC ("Midway") is an Oregon limited liability company that provides

services and support for various profit and nonprofit corporations, including World of Speed, Wren Racing LLC and DSRA LLC.

4. Midway remitted premium payment to Respondents for multiple insurance products, as stated below:

A. Check number 103447 for World of Speed was remitted on February 28, 2018 in the amount of $25,625 for annual renewal of its insurance policies with Hagerty Insurance Agency LLC ("Hagerty").

B. Check number 1013 for Wren Racing LLC was remitted on May 15, 2018 in the amount of $39,104 for annual renewal of its insurance policies with K&K Insurance Group.

C. Check number 1693 for World of Speed was remitted on August 7, 2018 in the amount of $4,834 for a fire insurance policy with Markel Insurance Company.

D. Check number 348 for DSRA LLC was remitted on August 7, 2018 in the amount of $24,950 for a commercial insurance package with Markel Insurance Company.

5. Respondents collected the above sums of money from Midway as premium payments for insurance and failed to provide the full payments to the insurers.

6. On May 21, 2018, M. Stewart requested that Hagerty change the address for World of Speed and Wren Racing to an address in Surprise, Arizona. The address was changed without the consent or knowledge of Midway. The Arizona address was owned and monitored by Respondents.

7. Hagerty sent multiple cancelation notices to the Arizona address. The cancelation notices were never received by Midway.

8. M. Stewart admits to making false and misleading statements to Midway regarding the payment and cancelation of multiple insurance policies.

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## CONCLUSIONS OF LAW

The Director CONCLUDES that:

9. Under ORS 731.104, "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance. Respondents are "Insurance Producers" as defined under ORS 731.104.

10. Under ORS 731.236(1), the Director shall enforce the provisions of the Insurance Code for the public good, and shall execute the duties imposed by the code.

11. Under ORS 731.256(1), the Director may institute actions or other lawful proceedings that the Director deems necessary to enforce a provision of the Insurance Code or any order or action the Director makes or takes in pursuance of law.

12. The Director has jurisdiction over this action under ORS 731.236(1) and ORS 731.256(1).

13. Under ORS 731.252(1), whenever the Director has reason to believe that any person has been engaged or is engaging or is about to engage in any violation of the Insurance Code, the Director may issue an order, directed to such person, to discontinue or desist from such violation or threatened violation. Because the Director has reason to believe that Respondents have been engaged in violation of the Insurance Code, the Director may issue an order to Respondents to cease and desist pursuant to ORS 731.252(1).

14. Under to ORS 744.074(1)(d), the Director may place a licensee on probation or suspend, revoke or refuse to issue or renew an insurance producer license for improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business. Respondents collected premiums from Midway, as listed in paragraph 4 above, and improperly withheld, misappropriated or converted those moneys by failing to remit the full payment to the insurer, in violation of ORS 744.074(1)(d).

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15. Under ORS 744.074(1)(h), the Director may place a licensee on probation or suspend, revoke or refuse to issue or renew an insurance producer license for using dishonest practices, demonstrating incompetence, or untrustworthiness in the conduct of business in this state or elsewhere. M. Stewart used dishonest practices, demonstrated incompetence, or untrustworthiness when he changed the address for Midway with Hagerty to an address he monitored without the consent or knowledge of Midway, in violation of ORS 744.074(1)(h). M. Stewart used dishonest practices, demonstrated incompetence, or untrustworthiness when he made false and misleading statements to Midway regarding the payment and cancelation of multiple policies, in violation of ORS 744.074(1)(h).

16. Under to ORS 746.120, no person shall willfully collect any sum as premium or charge for insurance which is not then provided or is not in due course to be provided subject to acceptance of the risk by the insurer, under an insurance policy issued by an insurer in conformity to the Insurance Code. Respondents willfully collected sums of moneys as premium from Midway, as listed in paragraph 4 above, which were not then provided to the insurer, in violation of ORS 746.120.

17. Under to 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 for violating any insurance laws, or violating any rule, subpoena or order of the Director. ORS 746.120 is an insurance law violated by the Respondents, therefore, the Director may revoke the Respondents' insurance producer licenses under ORS 744.074 (1)(b).

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## ORDERS

Now therefore, the Director issues the following Orders:

18. Pursuant to ORS 731.252(1), the Director ORDERS Respondents to CEASE AND DESIST from violating any provision of the Insurance Code or the administrative rules promulgated thereunder.

19. The Director, pursuant to ORS 744.074(1)(b), (d) and (h) hereby REVOKES M. Stewart's nonresident insurance producer license.

20. The Director, pursuant to ORS 744.074(1)(b) and (d) hereby REVOKES K. Stewart's nonresident insurance producer license.

21. Respondents agree to a permanent bar from the insurance industry in Oregon, and are therefore permanently prohibited from selling, soliciting or negotiating insurance.

22. Respondents agree to remove themselves from any affiliation with Wegener Insurance Agency, national producer number 4581767, and Trusted Advisors Insurance Group, LLC, national producer number 17547781, including being listed as the Designated Responsible Licensed Producer for either company, prior to the Division's acceptance of this Order.

23. This Order is a "Final Order" under ORS 183.310(6)(b). Subject to that provision, entry of this Order is no way limits or prevents further remedies, sanctions, or actions which may be available to the Director under Oregon law to enforce this Order, for violations of this Order, for conduct or actions of Respondents that are not covered by this Order, or against any party not covered by this Order. This may include, but is not limited to, findings of facts that may be alleged by the Director, other than what is identified in paragraphs one through eight, and the Directors right to take additional action and assess civil penalties under ORS 731.998.

SO ORDERED this 12th day of December , 2018 in Salem, Oregon.

CAMERON C. SMITH, Director
Department of Consumer and Business Services

*/s/ Dorothy Bean*
Dorothy Bean, Chief of Enforcement
Division of Financial Regulation

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CONSENT TO ENTRY OF ORDER

I, Marvin Stewart, 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.

Signature: /s/ MO Stewart

State of Arizona

County of Maricopa

Signed or attested before me on this 4th day of Dec., 2018 by Marvin Stewart.

/s/ Crystal Rame

Notary Public

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CONSENT TO ENTRY OF ORDER

I, Kathie Stewart, 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.

Signature: /s/ Kathie Stewart

State of Arizona

County of Maricopa

Signed or attested before me on this 4th day of Dec., 2018 by Kathie Stewart.

/s/ Crystal Rame

Notary Public

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