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

In the Matter of: LUKE SMITH, JEREMY RUGG and PBI INSURANCE AGENCY LLC, Respondents.	Case No. INS-18-0097 FINAL ORDER TO CEASE AND DESIST, ORDER REVOKING LICENSE, ASSESSING RESTITUTION AND CIVIL PENALTIES, 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, 743B, 744, 746, 748 and 750 ("Insurance Code"), has conducted an investigation into Luke Smith ("Smith"), Jeremy Rugg ("Rugg") and PBI Insurance Agency LLC ("PBI", collectively "Respondents") regarding numerous violations of the Insurance Code.

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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FINDINGS OF FACT

The Director FINDS that:

1. Rugg has been licensed as an Oregon resident insurance producer since February 17, 2012. Rugg's national producer number is 16551059.

2. Smith has been licensed as an Oregon resident insurance producer since May 14, 2013. Smith's national producer number is 16962122.

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3. PBI has been licensed as an Oregon resident insurance producer since June 21, 2016. PBI's national producer number is 16919902.

4. Rugg is the Designated Responsible Licensed Producer ("DRLP") for PBI.

5. Smith is the Affiliated Producer for PBI.

6. Rugg is the owner of PBI's US Bank Trust Account No. *7542 and PBI's US Bank Business Account No. *2100.

7. At all times relevant to these allegations, the only other person authorized as a signer on PBI's US Bank Trust Account No. *7542 and PBI's US Bank Business Account No. *2100 is Smith.

8. In November 2016, Rugg left Oregon and moved to Utah. Rugg had little involvement in the daily operations of PBI Insurance but remained the DRLP and responsible for the business entity's compliance with the Insurance Code

9. Respondents collected sums of money from Oregon consumers as premiums or charges for insurance, and those sums were not provided to the insurer, as follows:

A. On March 7, 2018, ADSEC paid PBI $798.39 via PBI's online Intuit portal for an insurance policy through MGA Safebuilt Insurance Services ("SIS"). The premium was deposited to PBI's US Bank Trust Account No. *7542 on March 15, 2018. Respondents did not forward the premium to SIS and the policy was cancelled for non-payment on May 9, 2018.

B. On March 8, 2018, Ignacio Ramos Martinez of Ramos Construction paid PBI $763.05 via PBI's online Intuit portal for an insurance policy through SIS. The premium was deposited in PBI's US Bank Trust Account No. *7542 on March 16, 2018. Respondents did not forward the premium to SIS and the policy was cancelled for non-payment on May 18, 2018.

C. On March 12, 2018, JABS Pools and Spas paid PBI $3,809.70 via PBI's online Intuit portal for an insurance policy through SIS. The premium was deposited to PBI's

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US Bank Trust Account No. *7542 on March 19, 2018. Respondents did not forward the premium to SIS and the policy was cancelled for non-payment on May 10, 2018.

D. On March 15, 2018, Brownfield Environmental wrote Check No. 1263 for $1,146.96 payable to PBI for an insurance policy through SIS. The premium was deposited to PBI's US Bank Trust Account No. *7542 on March 16, 2018. Respondents did not forward the premium to SIS and the policy was cancelled for non-payment on May 17, 2018.

E. On March 21, 2018, Fidel Ortez-Arriaza of Dyson Roofing paid PBI $2,714.90 via PBI's online Intuit portal for an insurance policy through SIS. The premium was deposited in PBI's US Bank Trust Account No. *7542 on March 29, 2018. Respondents did not forward the premium to SIS and the policy was cancelled for non-payment on May 23, 2018.

F. On March 26, 2018, William Ruby wrote Check No. 2033 for $1,030.00 payable to PBI for a general liability insurance policy with Builders Insurance. The check was deposited to PBI's US Bank Trust Account No. *7542 on April 2, 2018. Respondents did not forward the premium to Builders Insurance and the policy was cancelled for non-payment on July 10, 2018.

G. On March 27, 2018, Paul Timmons ("Timmons") of Discount Roofing paid PBI $2,647.41 via PBI's online Intuit portal for an insurance policy through SIS. The premium was deposited in PBI's US Bank Trust Account No. *7542 on March 29, 2018. Respondents did not forward the premium to SIS. On May 16, 2018, Timmons received a notice of cancellation. The policy was not cancelled but only because Timmons was able to show SIS he paid PBI.

H. On April 2, 2018, Carlos Ortiz/COL Construction paid PBI $325.00 via PBI's online Intuit portal for an insurance policy through CBIC. The premium was deposited in

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PBI's US Bank Trust Account No. *7542 on April 8, 2018. Respondents did not forward the premium to CBIC.

I. On April 5, 2018, Skyler Farr ("Farr") of Skyler Farr Construction paid PBI a $391.62 down payment via PBI's online Intuit portal for an insurance policy through SIS. The premium was deposited in PBI's US Bank Trust Account No. *7542 on April 13, 2018. On or about April 23, 2018, Farr obtained premium financing with Northern Investors for the remaining balance. On April 24, 2018, Northern Investors wrote Check No. 27970 payable to PBI for $574.85. Smith deposited the check in PBI's US Bank Trust Account No. *7542 on May 10, 2018. Respondents did not send the premiums to SIS and the policy was cancelled for non-payment on June 20, 2018.

J. On April 5, 2018, Federico Aguilar of Aloha Pressure Washing paid PBI $1,176.21 via PBI's online Intuit portal for an insurance policy through Builders Insurance. The premium was deposited in PBI's US Bank Trust Account No. *7542 on April 13, 2018. Respondents did not forward the premium to Builders Insurance and the policy was cancelled for non-payment on June 13, 2018.

K. On April 10, 2018, James Finucane of A Cut Above Yard Maintenance paid PBI $1,080.59 via PBI's online Intuit portal for an insurance policy through SIS. The premium was deposited in PBI's US Bank Trust Account *7542 on April 16, 2018. Respondents did not forward the premium to SIS and the policy was cancelled for non-payment.

L. On April 23, 2018, Artemio Rodriguez of TJ Roofing paid PBI $1608.08 via PBI's online Intuit portal for an insurance policy through Griffin Underwriting. The premium was deposited in PBI's US Bank Trust Account No. *7542 on April 30, 2018. Respondents did not forward the premium to Griffin.

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M. On May 31, 2018, Jeff Burns paid PBI $1,607.43 via PBI's online Intuit portal for an insurance policy through Builders Insurance. The premium was deposited in PBI's US Bank Trust Account No. *7542 on June 8, 2018. Respondents did not forward the premium to Builders Insurance and the policy was cancelled for non-payment on July 24, 2018.

N. On June 1, 2018, Michael Kulikov of Skyline Projects paid PBI $869.71 via PBI's online Intuit portal for an insurance policy through Builders Insurance. The premium was deposited in PBI's US Bank Trust Account No. *7542 on June 8, 2018. Respondents did not forward the premium to Builders Insurance and the policy was cancelled for non-payment on July 24, 2018.

O. On June 1, 2018, P. Denevers of Big Mike's Painting and Pressure Washing paid PBI $278.25 via PBI's online Intuit portal for an insurance policy through SIS. The premium was deposited in PBI's US Bank Trust Account No. *7542 on June 5, 2018. Respondents did not forward the premium to SIS and the policy was cancelled for non-payment.

P. On June 4, 2018, Benjamin Smith of Perfect Angle Construction paid PBI $708.69 via PBI's online Intuit portal for an insurance policy through Builders Insurance. The premium was deposited in PBI's US Bank Trust Account No. *7542 on June 11, 2018. Respondents did not forward the premium to Builders Insurance and the policy was cancelled for non-payment on July 24, 2018.

Q. On June 4, 2018, Joshua Ellingson of Ellingson Construction paid PBI $1,845.00 via PBI's online Intuit portal for an insurance policy through Builders Insurance. The premium was deposited in PBI's US Bank Trust Account No. *7542 on June 11, 2018. Respondents did not forward the premium to Builders Insurance and the policy was cancelled for non-payment.

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R. On June 20, 2018, Hector Santiago of Bull Mountain Roofing paid PBI $2,696.93 via PBI's online Intuit portal for an insurance policy through Builders Insurance. The premium was deposited in PBI's US Bank Trust Account No. *7542 on June 27, 2018. Respondents did not forward the premium to Builders Insurance and the policy was cancelled for non-payment on July 24, 2018.

S. On June 26, 2018, Patrick DeLair paid PBI $512.26 via PBI's online Intuit portal for an insurance policy through Shield Insurance. The premium was deposited in PBI's US Bank Trust Account No. *7542 on July 2, 2018. Respondents did not forward the premium to Shield Insurance and the policy was cancelled for non-payment.

T. On June 27, 2018, John Darby of Darby's Floor Covering wrote Check No. 6600 for $632.00 payable to PBI for an insurance policy through Builders Insurance**.** The premium was deposited to PBI's US Bank Trust Account No. *7542 on August 28, 2018. Respondents did not forward the premium to Builders Insurance.

U. On July 14, 2018, Gabel Contracting wrote Check No. 2805 for $310.00 payable to PBI for an insurance policy through Builders Insurance. The premium was deposited in PBI's US Bank Trust Account No. *7542 on August 28, 2018. The policy went into cancellation status but was reinstated after Respondents paid Builders Insurance on September 21, 2018.

V. On July 17, 2018, First Class Cleaning paid PBI $550.00 via PBI's online Intuit portal for an insurance policy through Griffin Underwriting. The premium was deposited in PBI's US Bank Trust Account No. *7542 on July 23, 2018. Respondents did not forward the premium to Griffin Underwriting and the policy was cancelled for non-payment.

W. On July 23, 2018, Richard Bennett of ATM Construction paid PBI $1,276.35 via PBI's online Intuit portal for an insurance policy through Griffin Underwriting**.** The

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premium was deposited in PBI's US Bank Trust Account No. *7542 on August 6, 2018. Respondent did not send the premium to Griffin Underwriting until September 21, 2018.

X. On September 18, 2018, Todd Flightner of Go For It White Water Adventures paid PBI $805.71 via PBI's online Intuit portal for an insurance policy through Griffin Underwriting. The premium was deposited in PBI's US Bank Trust Account No. *7542 on September 24, 2018. Respondents did not forward the premium to Griffin Underwriting.

Y. During an under-oath interview with the Division on October 24, 2018, Smith admitted that his lack of attention to PBI resulted in the collection of money from Oregon consumers as premiums that were not provided to insurers.

10. Respondents commingled or otherwise combined premiums payments with other moneys in the following instances:

A. For fourteen (14) months from August 7, 2017 until September 7, 2018, Respondents paid APM Rent (office rent) via electronic withdrawal from PBI's US Bank Trust Account No. *7542. Premium money from the trust account was used to pay rent.

B. On December 15, 2017, Timothy Ashley paid PBI $2,455.00 via PBI's online Intuit portal. The premium was deposited in PBI's US Bank Trust Account No. *7542 on December 22, 2017. That same day Smith transferred $2,850.06 to PBI's US Bank Business Account No. *2100. On December 26, 2017, Smith paid Kabbage Inc. $2,532.34 as payment for a business loan made to PBI.

C. On January 12, 2018, Northern Investors, a premium finance company electronically deposited $9,188.76 to PBI's Trust Account No *7542. The funds were intended to finance insurance premium for Smith Brothers Construction. The $9,188.76 was transferred to PBI's US Bank Business Account No. *2100. On the same day, Smith wrote eight (8) checks from PBI's US Bank Business Account No. *2100 payable to the Oregon Department of Revenue for a total $4,378.43. Smith then transferred $390.75 and

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$2,762.00 from PBI's US Bank Business Account No. *2100 back to PBI's US Bank Trust Account No *7542.

D. On January 17, 2018, Reeley Construction paid PBI $1,453.64 via PBI's online Intuit portal for an insurance policy through SIS. The premium was deposited in PBI's US Bank Trust Account No. *7542 on January 19, 2018. That same day, Smith withdrew $1,500.00 in cash from PBI's US Bank Trust Account No *7542 for unknown reasons. Smith did not pay SIS until March 22, 2018.

E. On January 23, 2018, Perfect World Home Improvement paid PBI $1,386.84 via PBI's online Intuit portal for an insurance policy through SIS. The premium was deposited in PBI's US Bank Trust Account No. *7542 on January 29, 2018. That same day, Respondents combined the money with other premium funds and transferred $1,886.84 to PBI's US Bank Business Account No. *2100.

F. On January 26, 2018, NRA LLC paid PBI $500.00 via PBI's online Intuit portal. The premium was deposited in PBI's US Bank Trust Account No. *7542 on January 26, 2018. That same day, Respondents combined the money with other premium funds and transferred $1,886.84 to PBI's US Bank Business Bank Account No. *2100.

G. In February 2018, Smith falsely obtained insurance premium financing from Northern Investors for two companies associated with Smith. On February 16, 2018, Smith deposited Northern Investors Check No. 26884 for $9,613.82 in PBI's US Bank Business Account No. *2100. The funds were intended to finance insurance premium for PBI Custom Homes. On February 20, 2018, Smith transferred $1,500.00 from PBI's US Bank Business Account No. *2100 to his US Bank Personal Account No. *4409. $6,113.82 was transferred to PBI's US Bank Trust Account No. *7542. No insurance product was purchased for PBI Custom Homes.

H. On February 27, 2018, Smith transferred $16,878.20 from his personal US Bank Account No. *4409 to PBI's US Bank Business Account No. *2100. That same day

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Smith transferred $7,694.93 from PBI's US Bank Business Account No. *2100 to PBI's US Bank Trust Account No. *7542 presumably to cover insurance company payments.

I. On March 6, 2018, Smith wrote Check No. 3074 from the PBI's US Bank Trust Account No. *7542 for $5,857.00 payable to Paulson's Floor Covering. Smith admitted this was a personal expense.

J. On April 18, 2018, Smith transferred $5,000.00 from PBI's US Bank Trust Account No. *7542 to PBI's US Bank Business Account No. *2100. Smith then withdrew $15,000.00 from the business account and paid Randy Rugg, Jeremy Rugg's father.

K. On June 13, 2018, Smith transferred $1,000.00 from his personal US Bank Account No. *4409 and $7,685.00 from PBI's US Bank Business Account No. *2100 to PBI's US Bank Trust Account No. *7542. That same day Smith purchased a cashier's check for $18,810.58 with trust account funds payable to Northern Investors to pay back the premium financing loans taken out for Smith Brothers Construction and PBI Custom Homes.

L. On October 2, 2018, Kabbage, Inc. withdrew $3,940.44 for a loan payment from PBI's US Bank Trust Account No. *7542 because PBI's US Bank Business Account No. *2100 did not contain sufficient funds to cover the withdrawal.

M. During an under-oath interview with the Division on October 24, 2018, Smith admitted to commingling or otherwise combining premiums payments from PBI's US Bank Trust Account No. *7542 with the PBI's US Bank Business Account No. *2100.

11. Smith falsely obtained insurance premium financing from Northern Investors for insurance policies that did not exist for two companies he was associated with or formerly associated with, Smith Brothers Construction and PBI Custom Homes, as follows.

Smith Brothers Construction

A. According to the Oregon Secretary of State records, Smith was a member of Smith Brothers Construction until 2015.

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B. On or about January 5, 2018, Smith obtained a quote from SIS for a general liability insurance policy for Smith Brothers Construction for $12,251.69. Coverage was not bound.

C. On January 5, 2018, Smith applied for premium financing with Northern Investors. On January 12, 2018, Northern Investors electronically deposited $9,188.76 in PBI's US Bank Trust Account No. *7542 for a general liability policy with Preferred Contractors Insurance Company.

D. That same day Smith transferred $9,188.76 to PBI's US Bank Business Account No. *2100 and wrote eight checks payable to the Oregon Department of Revenue for a total of $4,378.36. Smith transferred $3,152.76 back to PBI's US Bank Trust Account No. *7542 the same day and spent the remaining funds on various business expenses. Smith Brothers Construction did not purchase the general liability policy that Northern Investors financed.

PBI Custom Homes

E. According to the Oregon Secretary of State records, Smith is the Registered Agent for and member of PBI Custom Homes.

F. On February 7, 2018, Smith obtained a quote from SIS for a general liability insurance policy for PBI Custom Homes for $12,818.43 but did not bind coverage.

G. On February 7, 2018, Smith applied for premium financing with Northern Investors. On February 13, 2018, Northern Investors issued Check No. 26884 for $9,613.82 payable to PBI.

H. On February 16, 2018, Smith deposited the Northern Investors Check No. 26884 in PBI's US Bank Business Account No. *2100. That same day, Smith paid $482.41 in payroll from PBI's US Bank Business Account No. *2100. On February 20, 2018, Smith spent $982.94 on business expenses from PBI's US Bank Business Account No. *2100 and transferred $1,500.00 from PBI's US Bank Business Account No. *2100

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to his US Bank Personal Bank Account No. *4409. Smith then transferred $6,113.82 from PBI's US Bank Business Account No. *2100 to PBI's US Bank Trust Account No. *7542. PBI Custom Homes did not purchase the general liability policy that Northern Investors financed.

12. Smith falsified a bank statement as proof he paid SIS premiums owed for Smith Brothers Construction and PBI Custom Homes as follows:

A. On or about June 1, 2018, Northern Investors learned coverage had not been bound for PBI Custom Homes or Smith Brothers Construction, and Northern Investors had not received any payments from PBI. On June 1, 2018, Kris Gustafson ("Gustafson") at Northern Investors demanded repayment of $18,802.58.

B. Smith told Gustafson that PBI paid SIS and he was not aware the policies had not been bound. As proof of payment, Smith sent Gustafson an alleged copy of PBI's US Bank Trust Account No. *7542 February 2018 bank statement, which showed that Check No. 3074 for $10,895.66 and Check No. 3075 for $10,413.94 were processed on February 28, 2018. SIS had no record of receiving these checks.

C. A review of PBI's US Bank Trust Account No. *7542 bank statement for February 2018 did not list Check No. 3074 or 3075 and did not list checks for $10,895.66 or $10,413.94. However, PBI's US Bank Trust Account No. *7542 for March 2018 listed Check No. 3074 and 3075 for $5,857.00 and $1,671.47 respectively. Check No. 3074 was dated March 6, 2018 payable to Paulson's Floor Covering "22170 S. Leslie Avenue, Luke Smith 70-SMITL42" and Check No. 3075 was dated March 29, 2018 payable to Shield Commercial Insurance for $1,671.47.

D. US Bank had no record that the version of the bank statement Smith provided to Gustafson was ever created by US Bank.

E. During an under oath interview with the Division on October 24, 2018, Smith admitted to falsifying the US Bank statement.

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13. Smith falsely obtained loans from Kabbage Inc., an online company that provides loans intended for business expenses only as follows:

A. On September 7, 2017, Smith obtained a business loan from Kabbage Inc., which deposited $21,400.00 into PBI's US Bank Business Account No. *2100. That same day, Smith transferred $21,400.00 from the business account to his US Bank Personal Account No. *4409. On September 10, 2017, Smith wrote Check No. 201 from his personal account to Smith Brothers Construction for $10,385.00 as a "downpayment."

B. On April 12, 2018, Smith obtained a business loan from Kabbage Inc. and $10,300.00 was deposited into PBI's US Bank Business Account No. *2100. On April 18, 2018, Smith withdrew $15,000.00 from the business account and paid Randy Rugg.

14. Respondents improperly withheld, misappropriated or converted the following moneys or properties received in the course of doing insurance business:

A. When Respondents collected sums of money from Oregon consumers as premium payments and did not deliver such funds to the insurers, as more particularly detailed in paragraph eight (8) above.

B. When Respondents commingled funds from the premium trust account to pay for business expenses and personal use, as more particularly detailed in paragraph nine (9) above, with the exception of subsection H.

C. When Smith falsely obtained insurance premium financing through Northern Investors, as more particularly detailed in paragraph ten (10) above.

D. When Smith falsely obtained business loans through Kabbage, Inc., as more particularly detailed in paragraph twelve (12) above.

E. During an under-oath interview with the Division on October 24, 2018, Smith admitted to improperly withholding, misappropriating or converting moneys received in the course of doing insurance business.

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15. PBI's Oregon insurance producer license expired on June 30, 2018 and was not renewed until August 17, 2018. PBI continued to sell, solicit and negotiate insurance while its license was expired.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

16. Pursuant to 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 to discontinue or desist from such violation or threatened violation.

17. Pursuant to ORS 744.059(2)(b), a business entity acting as an insurance producer is required to obtain an insurance producer license and the Director must find that the business entity has designated a licensed insurance producer responsible for the business entity's compliance with the Insurance Code and rules of this state. Rugg is the DRLP for PBI and is responsible for the business entity's compliance with the Insurance Code and rules of this state.

18. Pursuant 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 violated ORS 746.120 by collecting premium payments for insurance that was not then paid to the respective insurers, as detailed in paragraph eight (8) above.

19. Pursuant to ORS 744.083(1), all premium funds received by a resident insurance producer shall be accounted for and maintained in a trust account separate from all other business and personal funds. ORS 744.083(2) states that a resident insurance producer may not commingle or otherwise combine premiums with any other moneys.

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Respondents violated ORS 744.083(2) by commingling funds as detailed in paragraph nine (9) above.

20. Pursuant to ORS 744.074(1)(d), the Director may take any authorized enforcement action against a person who is licensed in Oregon as an insurance producer if the person improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business. Respondents violated ORS 744.074(1)(d) by withholding, misappropriating or converting moneys in the course of doing insurance business, as detailed in paragraph thirteen (13) above.

21. Pursuant to ORS 744.074(1)(g), the Director may take any authorized action against a person who is licensed in Oregon as an insurance producer if the person has admitted or been found to have committed any unfair trade practice or fraud related to insurance. Smith committed unfair trade practices and/or fraud, in violation of ORS 744.074(1)(g), by falsely obtaining insurance premium financing for insurance policies that did not exist for two companies he was associated with or formerly associated with, falsifying bank statements, and obtaining business loans for personal use, as detailed in paragraphs ten (10), eleven (11), and twelve (12) above.

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22. Pursuant to ORS 744.074(1)(h), the Director may take any authorized enforcement action against a person who is licensed in Oregon as an insurance producer if the person used fraudulent, coercive or dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere. Respondents violated ORS 744.074(1)(h) by using fraudulent, dishonest practices, demonstrating incompetence and untrustworthiness in the conduct of business, as detailed in paragraphs eight (8), nine (9), ten (10), eleven (11), twelve (12) and thirteen (13) above.

23. Pursuant to ORS 744.053, a person may not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed as an

insurance producer. PBI allowed its insurance license to expire on June 30, 2018 and it was not renewed until August 17, 2018. During the time that PBI's license had expired, it continued to sell, solicit, or negotiate insurance in Oregon, in violation of ORS 744.053.

24. Pursuant to ORS 744.074(3), the Director may suspend, revoke or refuse to issue or renew the insurance producer license of a business entity if the Director determines that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation but the violation was not reported to the Director and corrective action was not taken. Rugg and Smith knew or should have known that Respondents were violating the Insurance Code and failed to report it to the Director.

25. Under ORS 731.988(1), the Director may impose a civil penalty up to $1,000.00 per violation upon any individual who violates a provision of the Insurance Code.

ORDERS

Now therefore, the Director issues the following Orders:

26. As authorized by 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.

27. The Director, pursuant to ORS 746.120, 744.083(2), and 744.074(1)(d) and (h), hereby REVOKES Rugg's Oregon resident insurance producer license.

28. The Director, pursuant to ORS 746.120, 744.083(2), and 744.074(1)(d), (g) and (h), hereby REVOKES Smith's Oregon resident insurance producer license.

29. The Director, pursuant to ORS 746.120, 744.083(2), and 744.074(1)(d) and (h), hereby REVOKES PBI's Oregon resident insurance producer license.

30. Smith agrees to a PERMANENT BAR from the insurance industry in Oregon, and are therefore permanently prohibited from selling, soliciting or negotiating insurance.

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31. Rugg agrees to a PERMANENT BAR from being DRLP. Rugg agrees not to reapply for an insurance producer license until all of the $35,000 restitution has been collected and all fees associated with the distribution of restitution has been paid.[1]

32. Based upon the foregoing and in accordance with ORS 731.988(1), the Director ORDERS a CIVIL PENALTY of $100,000.00, as to Rugg and Smith, joint and several.

33. The Director agrees to SUSPEND the collection of the CIVIL PENALTY as to Rugg on the condition that he pays $10,000.00 in RESTITUTION.

34. The Director agrees to SUSPEND the collection of the CIVIL PENALTY as to Smith on the condition that he pays $25,000.00 in RESTITUTION.

35. Rugg and Smith agree to satisfy their respective restitution obligations within two years from the effective date of this Order. If the restitution obligations are satisfied within that timeframe, and Rugg and Smith are otherwise in compliance with the terms of this Order, the Director will waive the collection of the $100,000 suspended civil penalty as against the complying party.

36. Respondents agree to deposit any commission checks or refunds made payable to Respondents from insurers, in an amount totaling no less than $3455.72, to U.S. Bank business account number *2100 within 10 days the execution of this Order.

37. Respondents agree to forfeit all sums in all US Bank accounts under order of injunction in Clackamas County Circuit Court case no. 18CV48022. The injunction includes U.S. Bank trust account number *7542 held by defendant PBI Insurance Agency LLC ("PBI"); U.S. Bank business account number *2100 held by PBI; U.S. Bank personal account no. *4409 held by defendant Luke Smith; and U.S. Bank account no. *4510 held by relief defendant PBI Custom Homes, LLC.

38. Respondents agree that Santiam Escrow Inc ("Santiam") in Stayton, OR will open an escrow account in the name of PBI and all funds from the above listed accounts

[1] There are no guarantees of approval upon reapplying for an insurance producer license.

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will be deposited into the escrow account. The terms of the escrow account shall be set forth in a separate escrow agreement, but at a minimum shall include a requirement that no funds shall be released from the escrow account without the written authorization from the Division. Respondents shall pay any and all fees, jointly and severally, associated with the Santiam escrow account, including but not limited to account set-up fees, fees for issuance of distributions, and any other service fees.

39. Rugg will receive credit towards his restitution obligation of $10,000 for half of the balance in U.S. Bank business account number *2100 held by PBI prior to the deposits of the commission checks by Smith.

40. For all other amounts in the above listed accounts, Smith will receive credit towards his restitution obligation of $25,000 for any amounts transferred.

41. Rugg will deposit $2,000 into the escrow account at the time this Order is signed.

42. Respondents will make payments directly to Santiam until restitution is paid in full and all fees related to the escrow account are paid in full. Respondents shall provide the Division with written notice of all restitution payments made to Santiam.

43. As will be further documented in an escrow agreement, Santiam will first distribute restitution to the insureds that made premium payments to PBI for coverage that was not bound or canceled for lack of payment and not made whole by the insurer (the Insured Victims), on a pro rata basis. Any remaining restitution amounts will be distributed to the insurers that were required to extend coverage to insureds but were unable to collect the premium from PBI (the Insurer Victims), on a pro rata basis. The first distribution shall be made within sixty (60) days from the effective date of this Order. Thereafter, distributions, first to the Insured Victims and then to the Insurer Victims, shall be made on no less than an annual basis. After all restitution is paid into the escrow account or three years after the execution of this order, whichever comes first, and known distributions are

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made, any remaining moneys will be delivered to the Unclaimed Property Section under the Department of State Lands.

44. Rugg and Smith agree to satisfy their respective restitution obligations, and pay all servicing fees to Santiam, within two years from the effective date of this Order. If the restitution obligations are satisfied within that timeframe, and Rugg and Smith are otherwise in compliance with the terms of this Order, the Director will waive the collection of the $100,000 suspended civil penalty as against the complying party.

45. The Director reserves the right to immediately assess and collect the $100,000.00 suspended civil penalty amount, pursuant to the procedures set forth in ORS 183.745, upon a determination that Rugg or Smith, respectively, have violated any term of this Order.

46. Respondents stipulate and agree that the civil penalty assessed herein is not dischargeable in a bankruptcy proceeding, pursuant to 11 U.S.C. 523(a).

47. The entry of this Order in no way limits further remedies which may be available to the Director under Oregon law.

SO ORDERED this 15th day of April, 2019 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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ENTITY CONSENT TO ENTRY OF ORDER

I, Jeremy Rugg, am an officer of PBI Insurance Agency LLC ("PBI"), and I am authorized to act on its behalf. I have read the foregoing Order and I know and fully understand the contents hereof. The factual allegations stated herein are true and correct. I have been advised of the right to a hearing and of the right to be represented by counsel in this matter. PBI voluntarily consents 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. PBI understands that the Director reserves the right to take further action against it to enforce this Order or to take appropriate action upon discovery that PBI has committed other violations of the Insurance Code. PBI, along with its officers, directors, employees, or agents, will fully comply with the terms and conditions stated herein.

PBI understands that this Order is a public document.

Signature: /s/ Jeremy Rugg

Position Held: Owner

State of Utah

County of Utah

Signed or attested before me on this 2 day of April, 2019 by Jeremy Rugg.

/s/ Caitlin Kearney

Notary Public

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CONSENT TO ENTRY OF ORDER

I, Luke Smith, 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/ Luke Smith

State of Oregon

County of Clackamas

Signed or attested before me on this 2 day of April, 2019 by Luke Smith.

/s/ Kyle Scot Gallagher

Notary Public

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350 Winter Street NE, Suite 410
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Telephone: (503) 378-4387

CONSENT TO ENTRY OF ORDER

I, Jeremy Rugg, 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/ Jeremy Rugg

State of Utah

County of Utah

Signed or attested before me on this 2 day of April, 2019 by Jeremy Rugg.

/s/ Caitlin Kearney

Notary Public

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