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

In the Matter of: BRIAN E. TINGLE, Respondent.	Case No. INS-20-0024 FINAL ORDER TO CEASE AND DESIST, ORDER TO SUSPEND LICENSE, ORDER TO PLACE PROBATION TERMS ON LICENSE, AND ORDER IMPOSING A CIVIL PENALTY, ENTERED BY CONSENT

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, 743B, 744, 746, 748 and 750 ("Insurance Code"), has conducted an investigation into Brian E. Tingle ("Tingle") and determined that Tingle used fraudulent, coercive or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business, among other violations.

Tingle, without admitting or denying the findings of fact and conclusions of law herein, wishes to settle this matter. Tingle is entering into this agreement out of his own free will and not as the result of any duress or undue influence by the Division of Financial Regulation ("Division").

Now, therefore, as evidenced by the authorized signature(s) subscribed in this Order, Tingle hereby consents to entry of this Order upon the Director's Findings of Fact and Conclusions of Law below.

FINDINGS OF FACT

The Director FINDS that:

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1. Tingle has been licensed in Oregon as a resident insurance producer since April 30, 1990. Tingle's national producer number is 6260640.

2. Tingle's business address is 585 A Street, Suite 1, Ashland, OR 97520-2093.

3. Tingle went to work for Bankers Life and Casualty Company ("Bankers Life") in the summer of 2013. While working for Bankers Life, Tingle began working with 70 year-old JR when the client's previously assigned insurance producer left Bankers Life.

4. JR's husband had handled the couple's finances until his death in 2012. JR requested that Tingle assist her with determining her financial position.

5. On September 20, 2013, Tingle sold JR a Bankers Life Single Premium Deferred Annuity, Policy No. 2804396, in the amount of $363,023.98.

6. On the same day, Tingle sold JR a Bankers Life Single Premium Indexed Fixed Deferred Annuity, Policy No. 2804387, in the amount of $173,838.95 (Annuity Policy Nos. 2804396 and 2804387 collectively referred to as "Bankers policies").

7. In February 2014, Tingle left Bankers Life and went to work for The Assurance Group.

8. The Bankers policies allow for an annual withdrawal of 10% of the accumulation on the policies, penalty free. On March 24, 2014 and April 14, 2014, Tingle coordinated JR's ten percent annual withdrawal from the Bankers policies. She received $30,107.17 and $14,254.79.

9. On June 20, 2014, Tingle sold JR an additional annuity, a Phoenix Personal Retirement Choice Annuity, Policy No. 2818349, in the amount of $129,950.00 ("Phoenix annuity").

10. In July 2015, Tingle received a call from JR's caregiver and close friend, Karine Boldt ("Boldt"), asking him details about JR's Bankers policies and Phoenix annuity.

11. In August 2015, Tingle started a romantic relationship with Boldt.

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12. Also in August 2015, JR and Boldt met with JR's estate planning attorney, David Smith ("Smith"), and removed JR's granddaughter from JR's Last Will and Testament ("the Will") and bequeathed a townhouse on North Modoc in Medford, Oregon ("Modoc property") to Boldt. JR owned the Modoc property outright and was receiving approximately $950 a month in rent from the property. The Modoc property was part of JR's family trust.

13. Upon information and belief, Tingle's primary source of income at this time included compensation from his employment as an insurance producer, and social security, which together totaled approximately $2,500 a month.

14. Upon information and belief, Boldt's only source of income at this time was her social security disability payments, approximately $1,200 a month.

15. On October 6, 2015, Tingle coordinated JR's annual withdrawals from the Bankers policies. She received $25,021.73 and $14,254.79.

16. On October 7, 2015, Boldt started managing JR's finances without a power of attorney.

17. On November 19, 2015, Boldt facilitated the signing by JR of a handwritten deed transferring the Modoc property to Boldt immediately rather than waiting to take the property under the Will.

18. On December 31, 2015, Tingle went to the Jackson County Assessor's Office and paid the filing fee to record the deed that transferred the Modoc property to Boldt.

19. Boldt moved into the Modoc property in December 2015. Tingle moved into the Modoc property in January 2016. Tingle and Boldt lived in the property until March 2017 and did not pay rent or otherwise compensate JR.

20. On January 27, 2016, Smith, JR's estate planning attorney, learned that Tingle and Boldt facilitated JR signing the deed to the Modoc property to Boldt, and demanded

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that Boldt deed the property back to JR. Smith reported Boldt to Adult Protective Services ("APS") for elder abuse.

21. On February 1, 2016, Tingle and Boldt wrote a letter to Smith and explained that Boldt had JR sign the deed to the Modoc property, thereby transferring title to Boldt, so she could remain in the townhouse as the owner and JR "can't 'flip-flop' on her promise to me."

22. On or about April 28, 2016, Boldt became the financial power of attorney for JR.

23. On or about May 5, 2016, Smith called Tingle and again insisted that Boldt deed the property back to JR. On or about May 6, 2016, Boldt did deed the property back to JR.

24. On August 16, 2016, Boldt facilitated the signing by JR of another deed transferring the Modoc property back to Boldt.

25. On September 29, 2016, Boldt coordinated JR's annual withdrawal from the Bankers policies. JR received $27,759.15 and $17,383.89.

26. Beginning in October 2016, Boldt began spending JR's money on her own personal expenses and writing checks to herself from JR's bank accounts, including purchasing an $800 poodle, making purchases on Vistaprint and paying for repairs on Boldt's personal vehicle.

27. In November 2016, Boldt began the process of purchasing two adjacent single family homes on East Barnett Road in Medford, Oregon ("Barnett property"). For the earnest money and down payment, Boldt wrote herself $30,000.00 in checks from JR's account.

28. On December 19, 2016, Bankers Life received a fax with full surrender forms for JR's Bankers policies. Boldt fraudulently identified herself as JR's daughter when speaking to Bankers Life.

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29. On December 22, 2016, Boldt contracted to purchase the Barnett property for $314,000.00, with the expectation she would use the proceeds from the surrendered Bankers policies for the purchase. Both Boldt and JR were listed on the Barnett property deed even though Boldt put no money towards the purchase of the property. In the event of JR's death, Boldt would have full ownership of the Barnett property.

30. On December 23, 2016, Boldt contacted Bankers Life and requested a rush on the policy surrenders.

31. On the same day, Tingle faxed an overnight mailing label that included the policy numbers for the Bankers policies to Bankers Life to expedite receipt of the policy funds. Tingle was aware of the content of the fax and that it was for the purpose of expediting the policy surrenders to ensure Boldt had the money for purchasing the Barnett property.

32. On December 25, 2016, Bankers Life processed the full surrender for policy no. 2804387 in the gross amount of $118,484.49. After deducting federal and state taxes in the amount of $12,110.50 and early surrender penalties in the amount of $8,293,91, Bankers Life issued check no. 96774319 for $98,080.08 made payable to JR.

33. On December 28, 2016, Bankers Life processed the full surrender for policy no. 2804396 in the gross amount of $250,521.43. After deducting federal and state taxes in the amount of $14,125.24 and early surrender penalties in the amount of $15,031.28, Bankers Life issued check no. 96776947 for $221,364.91 made payable to JR.

34. The surrender of the Bankers policies also created a taxable event for JR in 2016 because she received $319,444.99 from the surrender.

35. On January 4, 2017, Boldt deposited the two Bankers Life checks into her personal account.

36. On February 28, 2017, Boldt sold the Modoc property for $185,000.00 and kept all of the proceeds. No money went to JR.

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37. In March 2017, Tingle and Boldt moved from the Modoc property to the Barnett property. They lived in the property until May 2017. During that time, neither Tingle nor Boldt paid JR rent or compensated her in anyway.

38. On March 7, 2017, Boldt purchased a manufactured home on East South Stage Rd, Medford, Oregon, in the San George Estates (the "South Stage property") that was seven houses down from JR's home. Boldt paid $75,350.00 for the home, using the proceeds from the Modoc property sale and $30,000 from the Banker policies that were surrendered in December 2016.

39. On March 16, 2017, Tingle wrote check no. 6890 from his bank account payable to Boldt for $800.00. It was noted as "March rent 2525 E. Barnett." Boldt deposited the check into her account on March 20, 2017.

40. On March 24, 2017, Boldt purchased a property on North 8th Street in Klamath Falls, Oregon (the "8th Street property") for $86,500.00, using proceeds from the Modoc property sale.

41. On March 27, 2017, Boldt withdrew $21,000.00 from her account and bought $13,000 in cashier checks in the following amounts: $1,000.00, $2,000.00 and $10,000.00. Each of the cashier checks was made payable to Amerititle.

42. On May 15, 2017, Boldt and Tingle moved from the Barnett property to the South Stage property.

43. Boldt was arrested on February 23, 2018 to await trial on a 28-count indictment for multiple charges of aggravated theft, assault, and criminal misconduct, among other charges, for her handling of JR's finances and care.

44. Tingle continued to live at the South Stage property after Boldt's arrest. JR's attorney, Smith, had to file a residential eviction complaint against Tingle. The parties eventually entered a mediation agreement on the forcible entry and detainer action, agreeing that Tingle would vacate the property on November 18, 2018. For the 18 months

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that Tingle occupied the South Stage property, he did not pay rent or compensate JR in any way.

45. In addition to being a caregiver to JR, Boldt also assisted an unrelated male, GB, with caregiving and managed his finances, including being given power of attorney since 2010. Boldt began mishandling GB's finances by spending money on her personal expenses, not paying his bills, and depositing his pension checks into her personal account.

46. On September 14, 2018, Boldt pled no contest to 11 charges out of a 28-count indictment. She was convicted of the following crimes as related to her relationship with JR:

A. Criminal mistreatment in the first degree for the initial transferring of the Modoc property, as described in paragraph 17.

B. Criminal mistreatment in the first degree for the second transfer of the Modoc property, as described in paragraph 24.

C. Aggravated theft in the first degree for using JR's money for her own benefit, as described in paragraph 26.

D. Aggravated theft in the first degree for causing the surrender of JR's Bankers Life policy no. 2804387 and depositing the proceeds check into her accounts to purchase the Barnett property, as described in paragraph 32.

E. Aggravated theft in the first degree for causing the surrender of JR's Bankers Life policy no. 2804396 and depositing the proceeds check into her accounts to purchase the Barnett property, as described in paragraph 33.

F. Aggravated theft in the first degree for selling the Modoc property and keeping all of the proceeds, as described in paragraph 36.

G. Criminal misconduct in the first degree for failing to pay rent or compensate JR for the time that Tingle and Boldt lived in the Barnett property, as described in paragraph 37.

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H. Aggravated theft in the first degree for purchasing the South Stage property with the proceeds from the Modoc property and from the Bankers policies surrenders, as described in paragraph 38.

I. Aggravated theft in the first degree for purchasing the 8th street property with the proceeds from the Modoc property, as described in paragraph 40.

47. As part of the same criminal case, Boldt was convicted of criminal misconduct in the first degree for activities related to Boldt's handling of GB's finances, as described in paragraph 45.

48. Boldt was sentenced to 120 months in prison and ordered to pay $296,450.77 in restitution. After paying $10,000.00 toward restitution on November 28, 2018, Boldt's sentence was reduced to 96 months.

49. Tingle remained JR's insurance agent of record until July 2019.

50. During the Division's investigation, Tingle was not forthcoming with information and misrepresented many facts:

A. On June 7, 2019, the Division sent an email to Tingle requesting that he provide JR's Bankers policies documents. On June 10, 2019, Tingle responded by email stating that he sold JR the Bankers policies but did not assist in the surrender of the policies. Tingle stated that "a friend" was helping JR buy two income properties in Medford and he did not know until after the properties were purchased that JR had surrendered the Bankers policies. He stated he was a captive agent for Bankers for only 11 months and was no longer JR's agent of record. This was not true as Tingle remained JR's agent of record until July 2019 and assisted in the surrender of the Bankers policies, as more fully described in paragraphs 15 and 49.

B. On the same day, Tingle called the Division and stated that he had not had any interactions with JR since late 2016 or early 2017, and that he had not worked with her or her finances for the last several years. Tingle said JR was a neighbor and knew her through

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his now fiancée. He confirmed that his fiancée was Boldt. This was a false statement because he had actually met Boldt through JR and was aware of Boldt's mismanagement of JR's funds, including living in properties that were purchased by Boldt with JR's money without paying rent or compensating JR.

C. On September 25, 2019, Tingle responded to a second series of questions asked by the Division. In part, Tingle stated "[s]ince I was no longer the agent of record for [JR]'s Bankers annuities when she surrendered them, I don't know who might've assisted her in that action." This was a false statement because Tingle knew that Boldt assisted in the surrender of the Bankers policies and Tingle himself assisted in the surrender, as more fully described in paragraphs 29-31.

D. Tingle denied knowing that Boldt was being investigated until her arrest on February 23, 2018. When confronted with an email from Smith on April 20, 2017 describing the investigation, Tingle admitted that he knew Boldt was being investigated prior to her arrest.

51. On December 18, 2019, the Division conducted an interview of Tingle.

A. Tingle made the following statements regarding the titling of the Modoc property by Boldt, as described in paragraphs 17-24:

(1) Tingle denied any involvement in Boldt's deeding the Modoc property to herself twice but later admitted that he was the one to record the deed in Jackson County at Boldt's request.

(2) Tingle said Boldt was concerned that JR would put the Modoc property back in the family trust. Tingle was concerned on Boldt's behalf because she would be out of a house. When the Division pointed out that they were living together and he would also be out of a place to live, he admitted that was true.

B. Tingle made the following admissions regarding the surrender of JR's Bankers policies, as described in paragraphs 28-35:

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(1) Tingle denied knowing that the Bankers policies had been surrendered to purchase the Barnett property until after they moved in. When confronted with the fax Tingle sent to Bankers Life to have the surrenders expedited, he admitted to assisting with the surrender of the Bankers policies.

(2) Tingle knew JR would suffer heavy penalty amounts because the Bankers policies were only three years old and had large face amounts.

(3) Tingle knew the funds from the surrendered policies would be used to purchase the Barnett property as an investment for JR but also as a place for him and Boldt to live because Boldt was selling the Modoc property and they needed a place to live.

(4) Tingle stated he was not communicating with JR during this time, only with Boldt. He said the penalties would have been a red flag, but he could not recall if he voiced an opinion or advised against the surrender because Boldt and JR were "very excited about buying these two properties on Barnett."

C. Tingle made the following admissions regarding the cashier checks purchased by Boldt from the illegal sale of the Modoc property, as described in paragraph 41:

(1) Tingle knew Boldt had stored the checks in a black purse in the nightstand and did not send the checks to Amerititle.

(2) On September 21, 2018, seven days after Boldt was ordered to pay $296,450.77 in restitution, Tingle deposited the three cashier checks made out to Amerititle in the amount of $13,000 into Boldt's account and then purchased two cashier checks for $6,500 each. The checks were payable to Tingle with Boldt and Tingle listed as remitters. Tingle placed the two cashier checks back in the nightstand.

(3) Tingle stated, "I had them made into two $6,500 cashier checks for the simple reason that my anti-money laundering training says that banks look askew

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of $10,000.00 activity or more in one - one check. So I just figured, okay. Let's do it in two $6,500's just for the eventual ease of using them for a deposit, or whatever, rather than sending up a red flag with a $10,000 check. And that was my rationale."

(4) The Division asked why he did not just deposit the checks into a bank account. Tingle stated that Boldt wanted to keep the "money off the books."

CONCLUSIONS OF LAW

The Director CONCLUDES that:

52. 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 Tingle has been engaged in violations of the Insurance Code, including ORS 731.296, ORS 744.074(1)(h), ORS 746.075(1)(b) and (2)(e), the Director may issue an order to Tingle to cease and desist pursuant to ORS 731.252(1).

53. Under ORS 731.296, the Director may address any proper inquiries to any licensee in relation to its activities or condition or any other matter connected with its transactions. Any such person so addressed shall promptly and truthfully reply to such inquiries using the form of communication requested by the director. Tingle did not truthfully reply to the Director's inquiries when he misrepresented his involvement in JR's finances and knowledge of Boldt being investigated, as described in paragraphs 47(A)-(D), 48(A)(1), 48(B)(1) and 48(C).

54. Under ORS 744.074(1)(h), the Director may suspend or revoke an insurance producer license for using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business. Tingle used fraudulent, coercive or dishonest practices, or demonstrated incompetence,

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untrustworthiness when he allowed and assisted Boldt in taking financial advantage of JR by transferring the title of the Modoc property to Boldt, using JR's money to buy properties to live in and then failing to pay rent to JR, and helping Boldt keep $10,000 in cashier checks "off the books" to avoid using the funds to pay restitution, as described in paragraphs 16-18, 35, 40, 41, and 47(C). Accordingly, the Director may suspend or revoke Tingle's resident insurance producer license pursuant to ORS 744.074(1)(h). Additionally, Tingle is in violation of ORS 744.074(1)(h).

55. Under ORS 746.075(1)(b) and (2)(e), a person may not engage, directly or indirectly, in any device, scheme or artifice to defraud in connection with any inducement or attempted inducement of any insured or person with ownership rights under an issued life insurance policy to lapse, forfeit, surrender, assign, effect a loan against, retain, exchange or convert the policy. Tingle assisted with the surrender of JR's Bankers policies that Boldt used to purchase the Barnett property, as described in paragraphs 26-31. Accordingly, Tingle violated ORS 746.075(1)(b) and (2)(e).

56. Under ORS 744.074(b), the Director may suspend or revoke an insurance producer license for violating any insurance laws. Tingle violated insurance laws under ORS 731.296, ORS 744.074(1)(h), ORS 746.075(1)(b) and (2)(e), thereby authorizing the Director to suspend or revoke Tingle's resident insurance producer license.

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

ORDERS

Now therefore, the Director issues the following Order and Proposed Orders:

58. Pursuant to ORS 731.252(1), the Director ORDERS Tingle to CEASE AND DESIST from violating ORS 731.296, ORS 744.074(1)(b) and (h), and ORS 746.075(1)(b) and (2)(e).

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59. The Director, pursuant to ORS 744.074(1)(b) and (h), hereby SUSPENDS Tingle's resident insurance producer license for a period of 12 months, beginning on the date this Order is signed by the Director.

60. Upon reinstatement of Tingle's resident insurance producer license, Tingle will be on probation for three years with the following conditions:

A. Completes six hours of continuing education ("CE") classes in ethics within two years of the date of this Order, in addition to the CE classes required to maintain his License, and submit proof of completion to the Director at 350 Winter Street NE, Room 410, Salem, OR 97301 or DFR.ReportEnforcement@oregon.gov;

B. Completes all other requirements to maintain his License, even during its suspension, including filings and payment of fees; and

C. Does not violate the Insurance Code and this Order.

61. As authorized by ORS 731.988(1), the Director hereby ORDERS that Tingle be subject to a CIVIL PENALTY of $7,000 as follows:

(1) $3,000 for violating ORS 731.296;

(2) $2,000 for violating ORS 744.074(1)(h),

(3) $2,000 for violating ORS 746.075(1)(b) and (2)(e).

62. The Director suspends the $7,000 civil penalty provided that Tingle does not violate the Oregon Insurance Code or terms of this Order.

63. If Tingle fails to satisfy the above conditions, the $7,000 in suspended civil penalties shall immediately become due and owing. If Tingle satisfies the above conditions, the Director shall waive the suspended civil penalties at the completion of the three year probation period.

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64. This Order is a "Final Order" under ORS 183.310(6)(b). Subject to this provision, entry of this Order does not limit the Director's authority to enforce this Order or take action against Tingle for violations of this Order or violations not included in this Order that are discovered after the date of this Order.

SO ORDERED this 5th day of November, 2020 in Salem, Oregon.

ANDREW R. STOLFI, 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, BRIAN TINGLE, state that I have read the foregoing Order and that I know and fully understand the contents hereof; 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, without admitting to the allegations of the Order's Findings of Fact or Conclusions of Law, 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 violations of the Insurance Code by me that are not currently covered in this order that are unknown to the Director at the time of its investigation or that take place subsequent to the date of this Order; and that I will fully comply with the terms and conditions stated herein.

Signature: /s/ Brian E. Tingle

State of Oregon

County of Jackson

Signed or attested before me on this 4th day of November, 2020 by BRIAN TINGLE.

/s/ Irby G. Egami

Notary Public

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