STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES AND INSURANCE DIVISON

BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

In the Matter of:	**ID-09-0027**
ROBERT WARREN SPRUILL, dba Brooke Auto Insurance Services and dba Brooke Agency Services Company, LLC,	**ORDER TO CEASE AND DESIST, ORDER ASSESSING CIVIL PENALTY AND CONSENT TO ENTRY OF ORDER**
Respondent.	

WHEREAS the Director of the Oregon Department of Consumer and Business Services has conducted an investigation of certain business activities conducted by Robert Warren Spruill, dba Brooke Auto Insurance, and dba Brooke Agency Services Company, LLC ("Spruill"), and has determined that he has violated provisions of the Oregon Consumer Identity Theft Protection Act, Oregon Revised Statutes ("ORS") 646A.600 to 646A.628, and provisions of the Oregon Insurance Code, ORS Chapters 731 and 746; and

WHEREAS Spruill wishes to resolve and settle this matter with the Director; and

WHEREAS Spruill waives all rights relative to an administrative hearing and judicial review thereof;

NOW THEREFORE, as evidenced by the authorized signature(s) subscribed on this Order, Robert Warrant Spruill hereby CONSENTS to entry of this Order to Cease and Desist upon the Director's Findings of Fact and Conclusions of Law as

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stated hereinafter.

FINDINGS OF FACT

The Director **FINDS** that:

1. Robert Warren Spruill, a resident of the State of Washington, is an insurance producer licensed to conduct insurance business in the State of Oregon (License # 145167). Spruill is authorized to sell health, property, casualty and life insurance products in Oregon. He does business under a number of assumed business names, including Brooke Auto Insurance Services and Brooke Agency Services Company, LLC (hereinafter "Brooke Auto"). Brooke Auto has offices located at 1513 NE 181st Avenue, Portland, Oregon 97230.

2. The Oregon Consumer Identity Theft Protection Act requires persons who own, maintain or otherwise possess data that includes a consumer's personal information that is used in the course of the person's business, vocation, occupation or volunteer activities to develop, implement and maintain reasonable safeguards to protect the security, confidentiality and integrity of the personal information, including disposal of the data.

3. A person that is subject to and complies with regulations promulgated pursuant to Title V of the Financial Services Modernization Act of 1999, otherwise known as the Gramm-Leach-Bliley Act, 15 USC § 6801, *et seq.*, is deemed to be in compliance with provisions of the Oregon Consumer Identity Theft Protection Act.

4. The Gramm-Leach-Bliley Act requires the primary regulator of financial services providers, which for insurance producers would be the Oregon Insurance Division, to establish appropriate standards to respect the privacy of insurance customers and to protect the security and confidentiality of those customers' nonpublic information. In furtherance of this federal requirement, the Director, pursuant to the Oregon Insurance Code, ORS Chapter 731, *et seq.*, has adopted OAR

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836-081-0111(1), which requires insurance producers to implement and thereby implicitly develop, implement and maintain a comprehensive written information security program. The program must include administrative, technical and physical safeguards for the protection of customer information. The administrative, technical and physical safeguards included in the information security program are required to be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

5. Members of the public seeking to purchase an insurance product from Brooke Auto or Brooke Corporation were required to submit an application. To complete the application, Brooke Auto and Brooke Corporation solicited and obtained such information as the customer's name, residential address, Social Security number, bank account number, driver license number, vehicle license number, credit card number and card expiration date.

6. On or before April 28, 2009, Spruill discarded over 1,000 insurance business records and/or other documents related to insurance transactions of Brooke Auto and Brooke Corporation into an unlocked garbage dumpster behind the NE 181st Avenue offices of Brooke Auto. Approximately 50 of the discarded documents bore a customer name, address and full unredacted Social Security number. Approximately 66 other discarded documents bore a customer's name and unredacted driver license data, including license number. Approximately 900 more of the discarded documents were merchant copies of customer credit card receipts which bore the name and signature of the customer along with the full unredacted credit card number and the card expiration date. Spruill failed to shred or otherwise make the documents unreadable. The dumpster into which the documents were placed was not locked and was accessible to the public.

7. On or about April 28, 2009, an employee of a business located nearby the

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NE 181st location witnessed Spruill placing documents into the dumpster. He investigated and found that the documents contained personal information including unredacted Social Security numbers. He contacted a Portland television station, which subsequently contacted the State of Oregon, Division of Finance and Corporate Securities ("DFCS"). A staff enforcement officer of DFCS contacted the television reporter at the Brooke Auto offices and recovered the discarded documents from the dumpster.

8. Spruill told DFCS investigators that he disposed of the records of the various insurance businesses in the unlocked dumpster. He acknowledged that the materials included personal information, including unredacted Social Security numbers, client names, driver license numbers and credit card numbers, as well as business banking records. He told investigators that he wanted to be in compliance with the statutes and that he understood that ignorance of the law was not an excuse. He said that when he inquired of local police and the State of Oregon Insurance Division back in the fall of 2008, no one told him that discarding these records was wrong.

9. At the time he discarded the documents, Spruill had not developed reasonable safeguards to protect the security, confidentiality and integrity of the personal information or data collected or acquired in the course of conducting his business, including disposal of the data.

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CONCLUSIONS OF LAW

10. Brooke Auto is, at all times material herein, considered a "financial institution" for purposes of the Gramm-Leach-Bliley Act, 15 USC § 6801, *et seq.* (1999).

11. Spruill is a licensee of the Insurance Division as defined by ORS 746.600, meaning that he is an insurer, insurance producer or other person authorized or

required to be authorized, or licensed or required to be licensed, pursuant to the Insurance Code.

12. Spruill discarded over 1,000 insurance business records containing or bearing "personal information" as defined in ORS 646A.602(11) in that the documents contained business client names associated with unredacted Social Security numbers, driver license numbers, bank account numbers, and/or credit card numbers with card expiration dates.

13. Spruill failed to develop a comprehensive written information security plan with reasonable safeguards to protect the security, confidentiality and integrity of the personal information he collected or acquired in his insurance business in violation of ORS 646A.622(1) and OAR 836-081-0111(1).

14. By discarding over 1,000 insurance business records containing or bearing "personal information" into an unlocked trash container open to the public, Spruill failed to implement or maintain reasonable safeguards to protect the security, confidentiality and integrity of the personal information he collected or acquired in the course of conducting his business, including disposal of the data, as required by ORS 646A.622(1).

15. By discarding over 1,000 insurance business records and other documents related to insurance transactions into an unlocked trash container open to the public, Spruill failed to implement a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of customer information as required by OAR 836-081-0111(1).

16. Pursuant to ORS 646A.624(4)(a), a person who violates or who procures, aids or abets in the violation of the Oregon Consumer Identity Theft Protection Act may be subject to a civil penalty of not more than $1,000 for every violation.

17. Pursuant to ORS 731.988(1), an individual insurance producer, adjuster

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or insurance consultant who violates any provision of the Insurance Code, including any lawful rule adopted by the Director, may be subject to a civil penalty of not more than $1,000 for each offense.

ORDER

THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

Cease and Desist Orders

18. Pursuant to ORS 646A.624(3), Robert Warren Spruill is **ORDERED** to **CEASE AND DESIST** from violating the requirements of the Oregon Consumer Identity Theft Protection Act requiring him to develop, implement and maintain reasonable safeguards to protect the security, confidentiality and integrity of personal information, including disposal of the data.

19. Pursuant to ORS 731.252(1), Robert Warren Spruill is **ORDERED** to **CEASE AND DESIST** from violating the requirements of the Oregon Insurance Code and standards adopted pursuant to the Gramm-Leach-Bliley Act that require him to adopt and implement a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of customer information.

Destruction of Other Business Records

20. In the event that he has in his possession a collection of business documents to be discarded that contain personal information, including but not limited to records relating to clients, prospective clients, employees or former employees, and the documents to be discarded number more than 2,500 pieces of paper, Robert Warren Spruill agrees to employ a commercial document shredding service to destroy such documents.

Order Assessing Civil Penalty

21. Pursuant to the authority of ORS 646A.624(4) and ORS 731.988, the

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Director assesses Robert Warren Spruill a total **CIVIL PENALTY** of $11,000 (eleven thousand dollars) as detailed below:

a. Pursuant to ORS 646A.624(4) and ORS 731.988, the Director assesses Robert Warren Spruill a **CIVIL PENALTY** of $1,000 (one thousand dollars) for failure to develop a comprehensive written information security plan with reasonable safeguards to protect the security, confidentiality and integrity of the personal information he collected or acquired in the course of conducting his business, including disposal of the data, as required by ORS 646A.622(1) and OAR 836-081-0111(1).

b. Pursuant to ORS 646A.624(4) and 731.988, the Director assesses Robert Warren Spruill a **CIVIL PENALTY** of $10,000 (ten thousand dollars) for discarding over 1,000 insurance business documents in violation of ORS 646A.622(1) and OAR 836-081-0111(1).

c. Collection of $8,500 (eight thousand five hundred dollars) of the assessed **CIVIL PENALTY** is suspended by the Director so long as Respondent Robert W. Spruill is in full compliance with the terms and conditions of this Consent Order; **PROVIDED HOWEVER**, that any unpaid portion of the assessed penalty, including the suspended portion of the penalty, will be immediately due and payable upon a determination by the Director that Respondent Robert W. Spruill has violated any term of this Order, or any provision of the Consumer Identity Theft Protection Act, ORS Chapter 646A, or OAR Chapter 836, Division 081.

22. The unsuspended portion of the assessed **CIVIL PENALTY** in the amount of $2,500 (two thousand five hundred dollars) must be remitted to the Department of Consumer and Business Services according to the payment schedule outlined below. Failure to timely pay the **CIVIL PENALTY** is a violation of this Order.

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23. Respondent Robert W. Spruill will pay the unsuspended portion of the assessed **CIVIL PENALTY** in the amount of $2,500 (two thousand five hundred dollars) to the Department of Consumer and Business Services in three monthly payments beginning with the remittance of $834 (eight hundred thirty four dollars) with the return of this signed, notarized Order. Two additional monthly payments of $833 (eight hundred thirty-three dollars) will follow thereafter and must be received by the Department of Consumer and Business Services no later than October 12, 2009 and November 10, 2009, respectively. Failure to timely remit a monthly payment is a violation of this Order.

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

25. This Order is effective on the date it is signed by the Director or her designee.

IT IS SO ORDERED.

Dated this 22nd day of September, 2009, at Salem, Oregon.

CORY STREISINGER, DIRECTOR
Department of Consumer and Business Services

Greg Malkasian, Deputy Director

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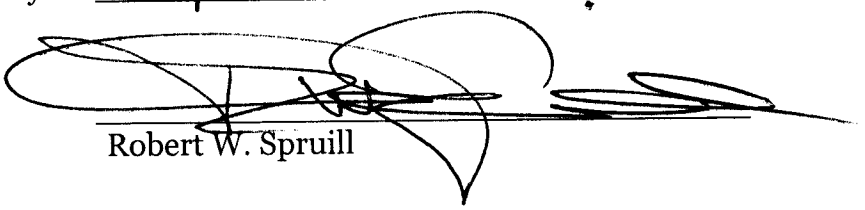
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CONSENT TO ENTRY OF ORDER

I, Robert W. Spruill, state a resident of the State of Washington; that I have read the foregoing Order and that I know and fully understand the contents thereof; that I execute this consent as a settlement of the matter referred to in the Order; that I do so voluntarily without force or duress; that I have voluntarily elected not to be represented by counsel in this matter; that I expressly waive any right to a hearing in this matter; that I understand that the Director reserves the right to take further action against me to enforce this Order or to take appropriate action upon discovery of other violations of the Oregon Consumer Identity Theft Protection Act or the Oregon Insurance Code; and that I will fully comply with the terms and conditions stated herein.

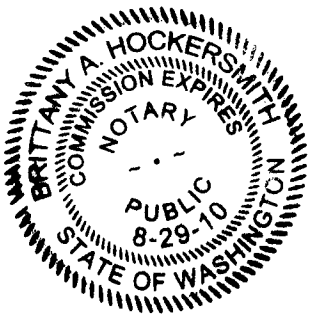
I understand that this Order is a public document.

Dated this 1st day of Sept., 2009.



Robert W. Spruill

SUBSCRIBED AND SWORN to before me this 01st day of September, 2009.



Signature of Notary Public

Notary Public for the State of: Washington

My commission expires: 08/29/2010

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