

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION

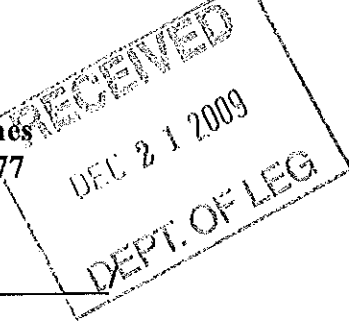
Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

Angella K. Swain-Jones
System ID No. 0251677

Respondent

Enforcement Case No. 09-7186
Agency Case No. 09-071-L



Issued and entered
on 12/28 2009
by Stephen R. Hilker
Chief Deputy Commissioner

CONSENT ORDER AND STIPULATION

A. FINDING OF FACTS AND CONCLUSIONS OF LAW

1. At all pertinent times involved herein, Angella Swain-Jones ("Respondent") was an insurance producer licensed to transact the business of insurance in the State of Michigan.
2. At all pertinent times involved herein, Respondent Swain-Jones transacted insurance business through her agency, Swain Insurance Agency.
3. At all pertinent times involved herein, Respondent Swain-Jones was the owner of Swain Insurance Agency and was/is responsible for all transactions and activities conducted through Swain Insurance Agency.
4. The Office of Financial and Insurance Regulation ("OFIR") received a complaint concerning Respondent Swain-Jones.
5. On April 24, 2006, Mr. LB ("Complainant") had his homeowner's insurance coverage cancelled for non-payment of premium even though his payments were made through his mortgage payment escrow account.
6. Before receiving the notice, the lender Countrywide made a payment on the Complainant's behalf in the form of check No. [REDACTED] dated November 30, 2005 in the amount of \$813.00 made payable to Foremost Insurance Co. c/o Swain Insurance.

7. On September 18, 2006, Countrywide had made a payment on the Complainant's behalf in the form of check No. [REDACTED] dated September 8, 2006 in the amount of \$1,050.00 made payable to Foremost Insurance Co. c/o Swain Insurance.
8. On April 17, 2007, Foremost notified the Complainant again that his coverage had been cancelled even though Countrywide had made a payment on the Complainant's behalf in the form of check No. [REDACTED] dated January 4, 2007 in the amount of \$901.00 made payable to Foremost Insurance Co. c/o Swain Insurance.
9. These funds were deposited in the Swain Agency's account, but the funds were not timely transmitted to the insurer.
10. Respondent Swain-Jones, as a licensed insurance, has the financial responsibility to have in place a mechanism for the collection of insurance premiums and remittance of those insurance premiums to which they are owed.
11. As licensed insurance producer, Respondent Swain-Jones knew or had reason to know that Section 1207(1) of the Michigan Insurance Code, ("Code") states that an agent shall be a fiduciary for all money received or held by the agent in his or her capacity as an agent. Failure by an agent in a timely manner to turn over the money which he or she holds in a fiduciary capacity to the persons to whom they are owed is prima facie evidence of violation of the agent's fiduciary responsibility.
12. As licensed insurance producer, Respondent Swain-Jones further knew or had reason to know that Section 1207(2) of the Code, states that an agent shall use reasonable accounting methods to record funds received in his or her fiduciary capacity including the receipt and distribution of all premiums due each of his or her insurers. An agent shall record return premiums received by or credited to him or her which are due an insured on policies reduced or canceled or which are due a prospective purchaser of insurance as a result of a rejected or declined application.
13. As licensed insurance producer, Respondent Swain-Jones further knew or had reason to know that Section 1239(1)(d) of the Code allows the Commissioner may place on probation, suspend, or revoke an insurance producer's license or may levy a civil fine under section 1244 for improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.
14. As licensed insurance producer, Respondent Swain-Jones further knew or had reason to know that Section 1239(1)(h) of the Code allows the Commissioner to place on probation, suspend, or revoke an insurance producer's license or levy a civil fine under Section 1244 for using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.


15. That by these actions, Respondent Swain-Jones has violated Sections 1207(1) & (2) and Section 1239(1)(d) & (h) of the Code.

B. ORDER

Based upon the findings of fact and conclusions of law above, and Respondent Swain-Jones's stipulation to said facts, it is hereby ORDERED that:

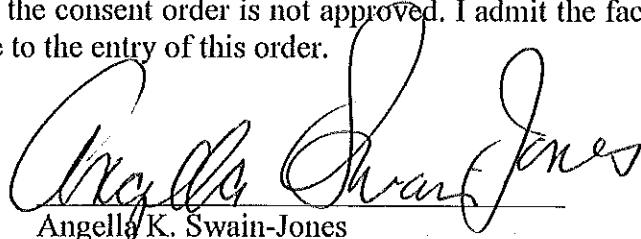
1. Respondent Swain-Jones shall immediately cease and desist from operating in such a manner as to violate Section 1207 and 12339 of the Code, MCL 500.1207 and 500.1239.
2. Respondent Swain-Jones shall ensure that a proper procedure is in place at all times for the collection and remittance of insurance premiums, as required by Section 1207 of the Code, MCL 500.1207.
3. Respondent Swain-Jones shall ensure all employees are properly trained concerning the collection and remittance of insurance premiums, as required by Section 1207 of the Code, MCL 500.1207.
4. Respondent Swain-Jones shall pay a civil fine to the State of Michigan in the amount of Five Hundred Dollars (\$500.00) for the failure to remit insurance premiums owed to an insurer, as required by the Michigan Insurance Code. Upon issuance and entry of this Order, OFIR will send an Invoice to Respondent Angella K. Swain-Jones and said Respondent shall pay the fine by the due date printed on the invoice.
5. After this Order is executed, Respondent's failure to comply with any of the terms set forth herein shall result in OFIR, at its sole discretion, upon 10 days notice to Respondent and without opportunity for an administrative hearing, may enter a Final Order of Revocation against Respondent.

OFFICE OF FINANCIAL AND
INSURANCE REGULATION

By: 
Stephen R. Hilker
Chief Deputy Commissioner

C. STIPULATION

I have read and understand the consent order above. I agree that the Commissioner has jurisdiction and authority to issue this consent order pursuant to the Insurance Code. I waive the right to a hearing in this matter if this consent order is issued. I understand that this stipulation and consent order will be presented to the Commissioner for approval and the Commissioner may or may not issue this consent order. I waive any objection to the Commissioner deciding this case following a hearing in the event the consent order is not approved. I admit the facts set forth in the above consent order and agree to the entry of this order.



Angella K. Swain-Jones
System ID No. 0251677

Dated: 12/16/2009

The OFIR staff approves this stipulation and recommends that the Commissioner issue the above Consent Order.


William R. Peattie

Dated: 12/22/09