

STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT  
INGHAM COUNTY

KEN ROSS, COMMISSIONER OF THE OFFICE  
OF FINANCIAL AND INSURANCE  
REGULATION,

Petitioner,

File No. 10- 1120 -CZ

v

HON. WILLIAM E. COLLETTE

ALTERNATIVE INSURANCE SERVICES, INC,  
and JOHN FLAHERTY,

Respondents.

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David W. Silver (P24781)  
Assistant Attorney General  
Attorney for Petitioner  
Michigan Department of Attorney General  
Corporate Oversight Division  
P. O. Box 30755  
Lansing, MI 48909  
(517) 373-1160

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There is no other pending or resolved  
civil action arising out of the transaction  
or occurrence alleged in this Petition

**PETITION FOR ENTRY OF ORDER COMPELLING COMPLIANCE WITH  
ADMINISTRATIVE ORDERS OF THE COMMISSIONER**

Ken Ross, acting in his official capacity as the Commissioner of the Office of Financial and Insurance Regulation (Commissioner), by and through his attorneys, Michael A. Cox, Attorney General of the State of Michigan, and David W. Silver, Assistant Attorney General, requests that the Court enter an Order compelling Respondents Alternative Insurance Services, Inc. and John Flaherty (Respondents) to fully comply with the terms of the Administrative

Orders entered by the Commissioner in this matter. This Petition is filed pursuant to the authority vested in the Commissioner pursuant to Section 1244(4) of the Insurance Code of 1956, as amended, MCL 500.1244(4). In support of the Petition, the Commissioner states as follows:

**Parties**

1. Ken Ross is the duly appointed Commissioner of the Office of Financial and Insurance Regulation (OFIR), and is vested with the power to "personally superintend the duties of his office," which includes administration and enforcement of the Insurance Code of 1956. MCL 445.2005, MCL 500.200, MCL 500.202 and MCL 500.1244.
2. Respondent Alternative Insurance Services, Inc. previously held an insurance agency producer license, System ID Number 0010772, and conducted business at 2701 Troy Center Drive, Suite 140, Troy, MI 48084. The producer license of Alternative Insurance Services, Inc. was revoked on December 30, 2008 pursuant to a Consent Order and Stipulation.
3. John Flaherty is an individual believed to reside at 1678 Picadilly Drive, Troy, MI 48084. Mr. Flaherty has also used 420 Lincoln Ave., Clawson, MI 48017 for his address. Mr. Flaherty does not hold an individual insurance license, but was the owner and authorized representative for Alternative Insurance Services, Inc.

**Jurisdiction and Venue**

4. This court has jurisdiction over this matter pursuant to Chapter 12 of the Insurance Code, MCL 500.1244(4), which provides:

The commissioner may apply to the circuit court of Ingham county for an order of the court enjoining a violation of this chapter.

Accordingly, venue is proper in Ingham County.

**General Allegations**

5. Following its investigation of complaints that Respondents John Flaherty and Alternative Insurance Services collected premium monies from policyholders but failed to remit premiums to various insurers, including AIG and Chubb Group, and failed to pay several excess and surplus lines general agents, the Office of Financial and Insurance Regulation entered a Consent Order and Stipulation with Respondents on December 30, 2008. A copy of the Consent Order and Stipulation is attached as Exhibit A.
6. The Consent Order and Stipulation required the Respondents to cease and desist from operating in a manner which violated Chapter 12 of the Insurance Code. In addition, the Consent Order and Stipulation ordered Respondents to pay restitution in the amount of \$1,329,086.55 to the various insurers and excess/surplus lines general agents specified in the Consent Order. Further, Respondents agreed to provide OFIR with a written repayment schedule to each insurer or entity within 90 days, with the length of repayment not to exceed five years. Respondents further agreed to submit quarterly reports to OFIR by the 15<sup>th</sup> day of each month. The Consent Order provided that Respondent John Flaherty shall incur a \$100.00 per day civil fine for each day a quarterly report is overdue. The first quarterly report was due April 15, 2009, with subsequent reports due on July 15, October 15, and January 15 of each year "until all restitution payments have been completed. The Consent Order revoked the insurance producer license held by Alternative Insurance Services, Inc., System ID 0010772.

7. Respondent John Flaherty failed to comply with the terms of the Consent Order and Stipulation. Following Respondent's default, OFIR met with Respondent John Flaherty. Thereafter, OFIR and Respondent entered a Stipulated Order Modifying Certain Terms of the December 30, 2008 Consent Order on July 31, 2009. John Flaherty signed the modified Consent Order on behalf of Respondents. A copy of the Stipulated Order Modifying Certain Terms of the December 30, 2008 Consent Order is attached as Exhibit B.
8. The modified Consent Order changed the terms with OFIR as follows: Respondent was ordered to submit a written repayment schedule for each insurer or agent to OFIR by September 30, 2009, with repayments no more than five years. Respondent was required to submit quarterly reports to OFIR no later than the 1<sup>st</sup> day of the month for which it is due. The quarterly report schedule was modified so that the first report was due November 1, 2009 and subsequent quarterly reports were to be filed with OFIR no later than January 1, April 1, July 1 and October 1, 2010 and each succeeding year until all restitution payments have been completed. Respondent John Flaherty was deemed individually and solely responsible for ensuring that the quarterly reports are filed with OFIR. Respondent John Flaherty shall incur a \$100.00 per day civil fine for each day a quarterly report is late. The Modified Consent Order further stated that, "With the exception of the foregoing modifications, the terms of the Consent Order remain unaltered and continue in full force and effect." OFIR waived the prior civil fine assessment of \$100 per day for failure to submit quarterly reports, but the \$100 per day civil fine is applicable beginning with

the quarterly report that was due on November 1, 2009, and all subsequent reports that have not been timely filed.

9. To date, the Respondent John Flaherty has violated, and continues to violate every term and provision of the Consent Order and every term and provision of the modified Consent Order. Respondent Flaherty has failed to file a repayment schedule for the \$1,329,086.55 owed in restitution to the insurers and excess/surplus lines general agents. Further, the Respondent has never filed any quarterly reports with OFIR. Finally, the Respondent has not made any restitution payments to victims as required by the Consent Orders. The Respondent Flaherty owes OFIR the amount of \$100.00 per day for every day following November 1, 2009, the due date for the first quarterly report.
10. Upon application by the Commissioner, this Court is authorized by MCL 500.1244(4) to issue an injunctive order which compels the Respondent to fully comply with the terms of the administrative orders of the Commissioner, including the Consent Order and Stipulation of December 30, 2008, as modified by the Stipulated Order Modifying Certain Terms of the December 30, 2008 Consent Order, entered on July 31, 2009.
11. This Petition is supported by the affidavit of Karen E. Porter, Manager of Insurance Investigation and Examination, Office of Financial and Insurance Regulation, which is attached as Exhibit C.

#### **RELIEF**

Wherefore, for the reasons stated above, the Commissioner requests that this Court enter an injunctive order that compels the Respondent John Flaherty to fully

comply with the terms of the administrative orders of the Commissioner, including the Consent Order and Stipulation, as modified by the Stipulated Order Modifying Certain Terms of the December 30, 2008 Consent Order. Further, the Commissioner requests that the Order provide that Respondent John Flaherty is ordered to pay a civil fine of \$100.00 per day for every day from November 1, 2009 until the first quarterly report is filed with OFIR. Further, the Commissioner requests that the Order expressly provide that Respondent's failure to comply with its provisions shall be deemed and punished as a contempt of court. Further, the Commissioner prays for entry of an Order to Show Cause Why the Court Should Not Enter an Order Compelling Compliance with the Administrative Orders of the Commissioner. Finally, the Commissioner requests that the Court award it such other and further relief that the Court deems just and equitable to ensure that Respondent John Flaherty fully complies with the administrative orders of the Commissioner.

Respectfully submitted,

Michael A. Cox  
Attorney General



David W. Silver (P24781)  
Assistant Attorney General  
Corporate Oversight Division  
P. O. Box 30755  
Lansing, MI 48909  
(517) 373-1160

Date: September 20, 2010

# Exhibit "A"

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

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

Alternative Insurance Services, Inc.  
System ID No. 0010772

Enforcement Case No. 08-6926

John Flaherty

Respondents

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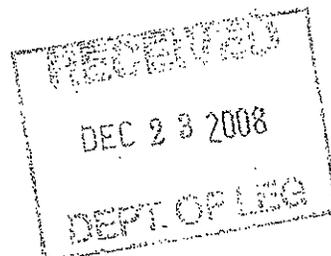
Issued and entered  
on 12/30/08 2008  
by Stephen R. Hilker  
Chief Deputy Commissioner

CONSENT ORDER AND STIPULATION

A. FINDINGS OF FACT AND CONCLUSIONS OF LAW

It is alleged that the following statements are true and correct:

1. At all pertinent times, Respondent Alternative Insurance Services, Inc. (hereafter referred to as "AIS") was an insurance agency licensed as an insurance producer within the State of Michigan with qualifications in property, casualty, and surplus lines.
2. At all pertinent times, Respondent John Flaherty (hereafter referred to as "Flaherty") was not licensed to sell, solicit, or negotiate insurance in the State of Michigan.
3. At all pertinent times, Respondent Flaherty owned and operated AIS. Respondent AIS and Flaherty are hereafter referred to as "Respondents."
4. Respondent Flaherty knew or had reason to know that Section 1201a(1) of the Michigan Insurance Code (hereafter referred to as "Code"), MCL 500.1201a(1), provides that a person shall not sell, solicit, or negotiate insurance in this state for any line of insurance unless the person is licensed for that qualification in accordance with Chapter 12 of the Code.
5. Respondents knew or had reason to know that Section 1207(1) of the Code, MCL 500.1207(1), provides that an agent shall be a fiduciary for all moneys 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.
6. Respondents further knew or had reason to know that Section 1207(2) of the Code requires 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."
  7. Respondents further knew or had reason to know that Section 1239(1)(d) of the Code, MCL 1239(1)(d), provides that the commissioner may place on probation, suspend, and revoke an insurance producer's license for improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business.
  8. Respondents further knew or had reason to know that Section 1239(1)(h) of the Code, MCL 500.1239(1)(h), provides that the commissioner may place on probation, suspend, and revoke an insurance producer's license for using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.
  9. On or about November 5, 2007, the Office of Financial and Insurance Regulation (hereafter referred to as "OFIR") received a written complaint from Anne Dwyer of American International Group (hereafter referred to as "AIG") Audit Investigative Group alleging Respondent Flaherty and AIS failed to remit over \$459,500.00 in premium on eight commercial insurance policies written through AIG.
  10. AIG alleged in its complaint that the following eight policyholders paid Respondent Flaherty and AIS insurance premium, but Respondent Flaherty and AIS failed to remit the money to AIG.
    - a. City of Inkster – amount due: \$263,109.85
    - b. County of Macomb – amount due: \$137,520.25
    - c. Midwest Hospitality, LLC – amount due: \$865.29
    - d. Michigan State AFL-CIO – amount due: \$3,327.00
    - e. Michigan State Building and Construction – amount due: \$360.00
    - f. Jonathan Witz and Associates – amount due \$31,875.00
    - g. Mack Avenue – amount due: \$21,250.00
    - h. City of Flint – amount due: \$1,219.75

**Total due: \$459,527.14**
  11. On November 13, 2007, OFIR Staff met with Respondent Flaherty and his attorney Michael Dorfman. At this meeting Mr. Flaherty stated in the presence of his attorney:
    - a. He was paid by the insureds on the above referenced AIG accounts.
    - b. He did not forward the premium money to AIG and still owed \$459,527.14 to AIG on the above referenced accounts.
    - c. He was not licensed as an insurance producer in the State of Michigan.
    - d. He placed business with insurance companies.

- e. He is responsible for signing all checks (payroll, overhead, and premium to insurers.)
  - f. He has written with other carriers since falling behind with AIG
12. Respondent AIS still owes AIG approximately \$459,527.14 in insurance premium.
  13. On July 22, 2008, Respondent Flaherty and AIS received a \$83,885.00 check from writing agents, Nickel & Saph, Inc., as premium payments for the renewal of insurance policies for the City of Fraser and Sanilac County.
  14. On or about July 23, 2008, Respondent Flaherty and AIS negotiated the check at Comerica Bank and the money was placed into an account held by Respondent Flaherty and AIS.
  15. The \$83,885.00 surplus lines premium should have been remitted by Respondent Flaherty and AIS to W. H. Greene, a surplus lines broker in the State of New York, and then forwarded to the companies underwriting the municipalities, Merchant's Mutual Insurance (Sanilac) and American Alternative Insurance Corp. (Frasier).
  16. Respondent Flaherty and AIS failed to remit the premium money to W.H. Greene.
  17. On September 2, 2008, Respondent Flaherty sent an email to Nickel & Saph, Inc., the writing agent for Frasier and Sanilac accounts, stating Respondents never sent the premium money to W.H. Greene and that the City of Fraser and Sanilac County had been issued notices of cancellation.
  18. On September 8, 2008, OFIR received an email from Terry Greene of W.H. Greene. Mr. Green alleged three municipalities, including Frasier and Sanilac, that had paid premium to Respondent Flaherty and AIS, which premium were not remitted to Greene.
    - a. Mecco: amount due \$32,584.98
    - b. Sanilac County: amount due \$20,647.00
    - c. City of Frasier: amount due \$42,346.00**Total due: \$95,577.98**
  19. Respondent AIS, directly and indirectly through Respondent Flaherty, received money in its fiduciary capacity as an agent, but failed to remit the money to whom it was owed in a timely manner, which is a violation of Section 1207(1) of the Code.
  20. Respondent AIS, directly and indirectly through Respondent Flaherty, received money in its fiduciary capacity as an agent, but failed use reasonable accounting methods to record funds received in its fiduciary capacity including the receipt and distribution of all premiums due each insurer, which is a violation of Section 1207(2) of the Code.
  21. Respondents improperly withheld, misappropriated, or converted money received in the course of doing insurance business in the State of Michigan, which is a violation of Section 1239(1)(d) of the Code.

22. Respondents used fraudulent, coercive, or dishonest practices or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in the State of Michigan, which is a violation of Section 1239(1)(h) of the Code.
23. Based upon the above actions, Respondents have committed acts that are grounds for the Commissioner ordering payment of a civil fine, refund of any overcharges, restitution be made to insureds to cover losses, damages or other harm attributed to Respondents' violation of the Code, and/or licensing sanctions under Section 1244(1) of the Code for the Respondents violating Section 1207(1), 1207(2), 1239(1)(d), and 1239(1)(h) of the Code.

### B. ORDER

Based on the findings of fact and conclusions of law above and Respondent's stipulation, it is ORDERED that:

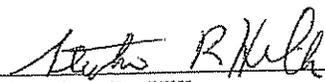
1. Respondents shall immediately cease and desist from operating in such a manner as to violate with Section 1207(1), 1207(2), and 1239(1)(d) and (h) of the Code, MCL 500.1207(1), 500.1207(2), 500.1239(1)(d), and 500.1239(1)(h).
2. Respondents shall pay restitution in the amount of \$1,329,086.55 dollars to the following:

a. Berkley Specialty	\$133,318.15
b. WH Greene & Associates	\$79,183.48
c. Chubb Group	\$547,267.49
d. AIG	\$403,957.10
e. AXA ART	\$3,706.00
f. Seneca	\$1,650.00
g. Market Access	\$7,614.45
h. ACE USA	\$2,125.00
i. JH Ferguson	\$4,023.75
j. COVERX	\$6,252.00
k. McGowan	\$7,600.00
l. Metro Insurance	\$16,596.05
m. Markel	\$13,099.23
n. Philadelphia Ins. Co.	\$3,244.65
o. American Empire	\$83,320.00
p. Media Professional	\$2,485.40
q. First Insurance Funding	\$11,518.80
r. Cairnstone/American Alternative	\$2,125.00
3. If OFIR determines any addition premium was not remitted to these insurers or entities, or any other insurer or entity, Respondent, after notification by OFIR, shall pay restitution to the insurer or entity.
4. Respondents shall provide OFIR with a written repayment schedule for each insurer or entity within 90 days of the effective date of this Order. The length of the repayment

schedules shall be determined by Respondents and the insurer or entity, but shall not be for more than five years from the date of this Order.

5. Respondents shall submit quarterly reports to the Office of Financial and Insurance Regulation, Market Conduct Section, Investigations Unit ("OFIR-MCSIU"). The OFIR-MCSIU must receive the quarterly report no later than the 15<sup>th</sup> day of the month for which the report is due. Respondent John Flaherty is individually and solely responsible for ensuring that the quarterly report is timely filed and received by OFIR-MCSIU. Respondent John Flaherty shall incur a \$100.00 per day civil fine for each day a quarterly report is received after the 15<sup>th</sup> day of the month for which the report is due.
6. Respondent John Flaherty shall file and the OFIR-MCSIU must receive the first quarterly report by April 15, 2009. Subsequent quarterly reports shall be due no later than July 15, October 15, and January 15 of each year until all restitution payments have been completed.
7. Respondent John Flaherty shall continue to file quarterly reports with OFIR-MCSIU until OFIR-MCSIU provides Respondent John Flaherty with a written statement that the quarterly reports are no longer required.
8. Respondent AIS's insurance producer license and authority are hereby **REVOKED**.

OFFICE OF FINANCIAL AND  
INSURANCE REGULATION

By:   
Stephen R. Hilker  
Chief Deputy Commissioner

# Exhibit "B"

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:

Alternative Insurance Services, Inc.  
System ID No. 0010772

Enforcement Case No. 08-6926

John Flaherty

Respondents

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Issued and entered  
on July 31st 2009  
by Stephen R. Hilker  
Chief Deputy Commissioner

STIPULATED ORDER MODIFYING CERTAIN TERMS OF THE  
DECEMBER 30, 2008 CONSENT ORDER

Factual Recitals

WHEREAS, on December 30, 2008, Chief Deputy Commissioner Stephen R. Hilker (the "Chief Deputy Commissioner") of the Michigan Department of Energy, Labor and Economic Growth, Office of Financial and Insurance Regulation ("OFIR") issued and entered a Consent Order, the terms of which were stipulated and agreed to by Respondents Alternative Insurance Services, Inc. and John Flaherty (collectively, the "Respondents"); and

WHEREAS, Paragraphs 2, 4, 5, and 6 of the Consent Order required the Respondents to, among other things, pay restitution in the amount of \$1,329,086.55 to a list of insurers and entities, provide OFIR with a written repayment schedule for each insurer or entity within 90 days of the effective date of this Order, submit quarterly reports to the OFIR no later than April 15, 2009 and then on July 15, October 15, January 15, and April 15 of each year until all

restitution payments have been completed and pay a \$100 per day civil fine for each day a quarterly report is received by OFIR after the 15<sup>th</sup> day of the month for which it is due.; and

**WHEREAS**, in violation of the December 30, 2008 Order, the Respondents have not submitted the repayment schedules or the April 15, 2009 quarterly report to OFIR; and

**WHEREAS**, the Respondents have not requested an extension of the deadline for providing the required information; and

**WHEREAS**, Respondent Flaherty is subject to a \$100 per day civil fine for his failure to submit the April 15, 2009 quarterly report.

#### **Order**

**NOW, THEREFORE**, based upon the foregoing facts, the Chief Deputy Commissioner and the Respondents hereby agree to modify the terms of the Consent Order in the following respects only:

1. The Respondents shall provide the Office of Financial and Insurance Regulation with a written repayment schedule for each insurer or entity listed in the Order by September 30, 2009. The length of the repayment schedules shall be determined by Respondents and the insurer or entity, but shall not be for more than five years from the date of this Order. The repayment schedules shall be submitted to the Office of Financial and Insurance Regulation, Market Conduct Section, Investigations Unit ("OFIR-MCSIU"), Ottawa State Office Building, Third Floor, 611 West Ottawa Street, Lansing, Michigan 48909, by no later than September 30, 2009.

2. Respondents shall submit quarterly reports to OFIR-MCSIU no later than the 1st day of the month for which the report is due. Respondent John Flaherty is individually and solely responsible for ensuring that the quarterly report is timely filed and received by OFIR-

MCSIU. Respondent John Flaherty shall incur a \$100.00 per day civil fine for each day a quarterly report is received after the 1st day of the month for which the report is due.

3. Respondent John Flaherty shall file and the OFIR-MCSIU must receive the first quarterly report by November 1, 2009. Subsequent quarterly reports shall be due no later than January 1, April 1, July 1, and October 1 of each year until all restitution payments have been completed.

4. Upon the issuance and entry of this Order, the deadlines for the submission of the repayment schedules and quarterly reports will be extended, as provided above, and the assessment of a \$100 per day civil fine for Respondents' prior failure to submit the quarterly report is waived.

With the exception of the foregoing modifications, the terms of the Consent Order remain unaltered and continue in full force and effect.

By entering into this Stipulated Order, OFIR does not waive its right to enforce any terms of the December 30, 2008 Consent Order not expressly modified herein.

**STIPULATED AND AGREED:**

**OFFICE OF FINANCIAL AND  
INSURANCE REGULATION**

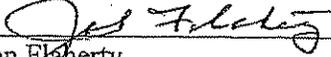
By: Stephen R. Hilker  
Stephen R. Hilker  
Chief Deputy Commissioner  
Office of Financial and Insurance Regulation

Dated: 11/31/09

By: John Flaherty  
Authorized Representative of  
Alternative Insurance Services, Inc.  
System ID No. 0010772

Dated: 7-24-09

Stipulated Order Modifying Certain Terms of the  
December 30, 2008 Consent Order  
Enforcement Case No. 08-6926  
Page 4

By:   
John Flaherty

Dated: 7-24-09

# Exhibit "C"

STATE OF MICHIGAN  
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT  
INGHAM COUNTY

KEN ROSS, COMMISSIONER OF THE OFFICE  
OF FINANCIAL AND INSURANCE  
REGULATION,

Petitioner,

File No. 10-

-CZ

v

HON.

ALTERNATIVE INSURANCE SERVICES, INC,  
and JOHN FLAHERTY,

Respondents.

---

**AFFIDAVIT OF KAREN E. PORTER**

State of Michigan     )  
                                  ) ss  
County of Ingham     )

I, Karen E. Porter, being first duly sworn, depose and state as follows:

1. I am the Manager of Insurance Investigation and Examination, at the Michigan Department of Energy, Labor and Economic Growth, Office of Financial and Insurance Regulation ("OFIR"). I have been employed by OFIR (and its predecessors, Financial Institutions Bureau and Office of Financial and Insurance Services) for 23 years.
2. I have personal knowledge of the facts set forth in this affidavit and am competent to testify regarding such facts if called upon to do so.
3. I have personal knowledge that OFIR conducted an investigation of complaints about the conduct and practices of Alternative Insurance Services, Inc. and John Flaherty regarding their failure to remit premium money to various insurers and

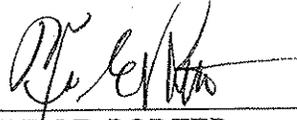
surplus lines general agents. I have reviewed the investigation reports and examined the OFIR files regarding this matter.

4. On December 30, 2008, OFIR entered a Consent Order and Stipulation with Alternative Insurance Services, Inc. and John Flaherty, Respondents. John Flaherty signed the Consent Order and Stipulation on behalf of Respondents. The terms of the Consent Order included: a Cease and Desist Order to not violate certain sections of Chapter 12 of the Insurance Code, 1956 PA 218, as amended. In addition, the Respondents were ordered to pay restitution of \$1,329,086 to 18 insurers and surplus lines general agents. The \$1.3 million represented premium paid to Respondent by his commercial business clients for insurance coverage that Respondent had failed to remit to the insurers and surplus lines general agents. Further, the Respondent was ordered to submit a repayment schedule to OFIR within 90 days, with repayment not to exceed five years. Respondent was to submit quarterly reports to OFIR, the first report due April 15, 2009, with a \$100 per day fine if the report is late. Further, the insurance producer license held by Alternative Insurance Services, Inc. was revoked.
5. I have personal knowledge that the Respondents did not comply with the terms of the Consent Order and Stipulation. Thereafter, OFIR entered a Stipulated Order Modifying Certain Terms of the December 30, 2008 Consent Order on July 31, 2009. John Flaherty signed the Modified Consent Order on behalf of Respondents. The Modified Consent Order changed the terms with OFIR as follows: Respondent shall submit a written repayment schedule for each insurer or agent to OFIR by September 30, 2009, with repayments no more than five years. Respondent is required to submit quarterly reports to OFIR no later than the 1<sup>st</sup> day of the month for which it is due.

The quarterly report schedule was modified so that the first report was due November 1, 2009, and subsequent quarterly reports were to be filed with OFIR no later than January 1, April 1, July 1 and October 1, 2010 and each succeeding year until all restitution payments have been completed. Respondent John Flaherty is individually and solely responsible for ensuring that the quarterly reports are filed with OFIR. Respondent John Flaherty shall incur a \$100 per day civil fine for each day a quarterly report is late. The Modified Consent Order further stated that, "With the exception of the foregoing modifications, the terms of the Consent Order remain unaltered and continue in full force and effect." OFIR waived the prior civil fine assessment of \$100 per day for failure to submit quarterly reports, but the \$100 per day civil fine is applicable beginning with the quarterly report that was due on November 1, 2009, and all subsequent reports that have not been timely filed.

6. I have personal knowledge that Respondent John Flaherty has failed to comply with any of the terms of the two administrative orders issued by OFIR in this matter. Mr. Flaherty has not made any restitution payments to any party. Mr. Flaherty has not filed any repayment schedule with OFIR, nor has he filed any quarterly report with OFIR. Mr. Flaherty has not paid OFIR any amount of the civil fines owed for his failure to timely submit quarterly reports to OFIR. Pursuant to the terms of the Consent Order and Stipulation, a civil fine of \$100 per day is due and owed for every day from November 1, 2009, the due date of the first quarterly report, until present.

7. The affiant says nothing further.



KAREN E. PORTER

Subscribed and sworn to before me  
on this 15th day of September, 2010.



Mary Gee, Notary Public  
Montcalm County, Michigan  
Acting in Ingham County  
My commission expires: May 12, 2014