

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

Craig L. Whatley  
System ID No. 0027025

Enforcement Case No. 10-11115

Thomas L. Whatley Agency, Inc.  
System ID No. 0005540

Respondents

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Issued and Entered  
on May 17<sup>th</sup> 2012  
by Annette E. Flood  
Chief Deputy Commissioner

CONSENT ORDER AND STIPULATION

A. FINDING OF FACT AND CONCLUSIONS OF LAW

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

1. On October 20, 2010, the Office of Financial and Insurance Regulation (OFIR) received a complaint from \_\_\_\_\_ alleging Craig L. Whatley and Thomas L. Whatley Agency, Inc. (Respondents) received premium from policyholders and a premium finance company, but failed to remit any or the entire premium received to \_\_\_\_\_.
2. On or about May 13, 2010, Respondents placed a commercial property and liability policy through \_\_\_\_\_ for Ms. A. P.
3. On or about May 13, 2010, Respondents placed a commercial property and liability policy through \_\_\_\_\_ for \_\_\_\_\_.
4. The policies for Ms. A. P. and \_\_\_\_\_ were premium financed through \_\_\_\_\_ issued one check to Respondents for \$4,525.10 covering the financed portion of both policies. (\$1,527.70 for Ms. A. P. and \$2,997.40 for \_\_\_\_\_).
5. On or about May 20, 2010, Respondents placed a commercial property and liability policy through \_\_\_\_\_ for Ms. F. D. Ms. F.D. paid Respondents \$1,096.13 via personal check that was deposited into Respondents' account.

6. On or about June 7, 2010, Respondents placed a commercial property and liability policy through \_\_\_\_\_ for Ms. T. S. The policy was premium financed through \_\_\_\_\_. On June 11, 2010, \_\_\_\_\_ issued a check to Respondents for \$2,407.30 for Ms. T. S.'s policy that was deposited into Respondents' account.
7. As licensees, Respondents knew or had reason to know that Section 1207(1) of the Michigan Insurance Code, (hereafter "Code") provides 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."
8. As licensees, Respondents further knew or had reason to know that Section 1239(1)(d) of the Code, allows the Commissioner to place on probation, suspend, revoke, or levy a civil fine under Section 1244 or any combination thereof, for "Improperly withholding, misappropriating, or converting any money or property received in the course of doing insurance business."
9. As licensees, Respondents further knew or had reason to know that Section 1239(1)(h) of the Code allows the Commissioner to place on probation, suspend, revoke, or levy a civil fine under Section 1244 or any combination thereof, for "Using fraudulent, coercive, or dishonest practices or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere."
10. Based upon the actions listed above, 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), 1239(1)(d), and 1239(1)(h) of the Code.

## B. ORDER

Based upon the findings of fact and conclusions of law above, and Respondents' Stipulation to said facts, it is hereby ORDERED that:

1. Respondents shall immediately cease and desist from operating in a manner that violates the Michigan Insurance Code, 1956 PA 218, as amended, MCL 500.100 *et seq.*
2. Respondents shall be placed on probation for a period of two (2) years, starting on the date of the issuance and entry of this Order.
3. As provided in Respondents' settlement with \_\_\_\_\_, Respondents shall pay restitution of \$6,088.10 to \_\_\_\_\_ no later than May 28, 2012.
4. Unless unavailable or prohibited by an insurance company, Respondents are prohibited from using an agency billing system and shall immediately change to an insurance company direct billing system for all insurance companies for which Respondents are

- appointed for the collection of insurance premium charges from all current and future policyholders.
5. Respondents shall provide in writing to the Market Conduct Division of OFIR any written or oral complaints regarding Respondents within 30 days of said complaint and any steps taken to resolve the matter.
  6. In addition to all other continuing education course requirements, Respondent Craig L. Whatley shall take an additional three (3) credits of continuing education classes in ethics during the probationary period.
  7. During the probationary period, Respondents are prohibited from applying for or obtaining any new appointments or qualifications unless the Market Conduct Division of OFIR provides Respondents with prior written consent.
  8. Respondent Craig L. Whatley shall pay to the state of Michigan, a civil fine of One Thousand Dollars (\$1,000.00). Upon acceptance of this Order, OFIR will send an Invoice to Respondent Whatley, and Respondent Whatley shall pay the fine by the due date printed on the Invoice.
  9. If Respondent fails to comply with any of the above provisions, OFIR shall immediately commence proceedings to revoke the insurance producer licenses held by Respondents.

OFFICE OF FINANCIAL AND  
INSURANCE REGULATION

By:   
Annette E. Flood  
Chief Deputy Commissioner

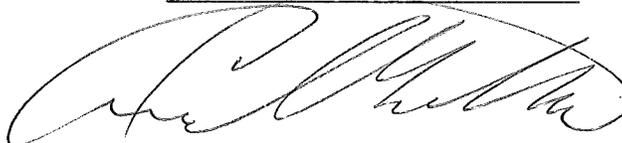
**C. STIPULATION**

I have read and understand the Consent Order above. I agree that the Chief Deputy Commissioner has jurisdiction and authority to issue this Consent Order pursuant to the Insurance Code. I waive any 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 Chief Deputy Commissioner for approval and the Chief Deputy 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 findings of fact and conclusions of law set forth in the above Consent Order and I agree to the entry of this Order. I admit that both parties have complied with the procedural requirements of the Code and the Michigan Administrative Procedures Act (MAPA), MCL 24.201 *et seq.* I have had an opportunity to review the Stipulation and Consent Order and have the same reviewed by legal counsel.



Craig L. Whatley,  
System ID No. 0027025

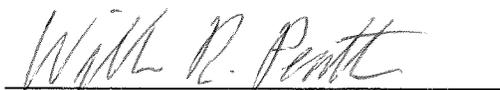
Dated: 5-9-2012



Authorized Representative of Thomas L.  
Whatley Agency, Inc.  
System ID No. 0005540

Dated: 5-9-2012

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



William R. Peattie

Dated: 5/14/12