STATE OF MCHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of the Office of Financial and Insurance Services

In the matter of:

James R. Orr
System ID No. 0053994

Enforcement Case No. 06-4876

Respondent

_____/

Issued and entered
on 15 May, 2008
Frances K. Wallace
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. James R. Orr ("Orr") is a licensed resident adjuster for the insured with qualifications in fire and other hazards, authorized to transact the business of insurance adjusting in the State of Michigan.

2. As a licensed resident adjuster, Respondent Orr knew or had reason to know that Section 1226(3) of the Code, MCL 500.1226(3), prohibits an adjuster for the insured from charging a rate for his or her services which exceeds 10% of the amount paid by the insurer in settlement of the loss.

3. As a licensed resident adjuster, Respondent Orr knew or had reason to know that Section 1228 of the Code, MCL 500.1228, states in pertinent part that an adjuster for an insured shall maintain a complete record of each of his transactions as an adjuster for the insured. Records shall be maintained for at least 6 years after the termination of the transaction with an insured, and shall be open to examination by the commissioner.

4. As a licensed resident adjuster, Respondent knew or had reason to know that Section 249(a) of the Code, MCL 500.249(a) provides that for the purposes of ascertaining compliance with the provisions of the insurance laws of the state or of ascertaining the business condition and practices of an insurer or proposed insurer, the commissioner, as

often as he deems advisable, may initiate proceedings to examine the accounts, records, documents and transactions pertaining to: (a) Any insurance agent, surplus line agent, general agent, adjuster, public adjuster or counselor.

5. As a licensed resident adjuster, Respondent Orr knew or had reason to know that Section 1242(2) of the Code, MCL 500.1242(2), provides, the commissioner, after notice and opportunity for a hearing, may suspend or revoke the license of an adjuster who fails to maintain the standards required for initial licensing or who violates any provision of this act.

6. As a licensed resident adjuster, Respondent Orr knew or had reason to know that Section 1244 of the Code, MCL 500.1244, states in pertinent part that if the commissioner finds that a person has violated this chapter, after an opportunity for a hearing, the commissioner shall reduce the findings and decision to writing and shall issue and cause to be served upon the person charged with the violation a copy of the findings and an order requiring the person to cease and desist from the violation, pay a civil fine, refund overcharges, pay restitution, and/or suspend or revoke the person's license.

7. On or about October 22, 2003, [redacted] "Complainant") suffered a fire loss to her home.

8. On or about October 23, 2003, the Complainant signed an agreement with Respondent Orr to "negotiate and adjust/appraise" the loss to her home. Respondent Orr on behalf of Prime Adjusting Service ("Prime") signed the contract. The contract also provided that the Complainant would pay Respondent Prime Adjusting Service a sum "not to exceed ten percent (10%) of the settlement by the insurer in settlements of loss."

9. In July 2005, the Office of Financial and Insurance Services ("OFIS") received a complaint from the Complainant. The Complainant alleges that Respondent Orr mishandled funds he received from the Complainant to repair damage to her home caused by a fire.

10. Complainant's settlement for the dwelling replacement cost was $116,457.78. Allstate withheld $17,566.17 as holdback depreciation until the home was completed. Through a series of check payments, Respondent Orr collected an adjuster fee that exceeded 10% of $98,891.61.

11. Complainant had personal items being cleaned at [redacted] In July 2005, Respondent Orr told Complainant that he took $1,408.80 from her contents check to pay [redacted] Respondent Orr did not pay [redacted] until February 7, 2008.

12. On two separate occasions OFIS mailed Respondent Orr a letter requesting the following: financial records concerning the adjusting done for Complainant; amount paid in total by the insurance company, broken down into the amount of each check; amount Complainant was issued and copies of checks issued to Complainant by Respondent

and/or Respondent's Company. Respondent Orr failed to provide OFIS with the requested information.

13. Based on the foregoing, Respondent Orr has violated Section 249(a), 1226(3), and 1228 of the Code, thereby subjecting Respondent Orr to sanctions under Sections 1242 and 1244 of the Code.

B. ORDER

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

1. Respondent shall immediately cease and desist from operating in such a manner as to violate the Michigan Insurance Code, including, but not limited to Section 249, 1226 and 1228 of the Code.

2. Respondent shall pay to the State of Michigan a civil fine of One Thousand Dollars ($1,000.00). Upon execution of this Order, OFIS will send Respondent an Invoice for the civil fine, which shall be due within 30 days of issuance of the Invoice.

Frances K. Wallace

Frances K. Wallace
Chief Deputy Commissioner

Dated: 15 May 2008