

STATE OF ALASKA

DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

In the Matter of:)
)
BUDGET INSURANCE, INC. AND)
MARLENE MUNGLE)
)
Licensees.)
)

Case No. D16-10

STIPULATED AGREEMENT AND ORDER

The Division of Insurance (division), Budget Insurance, Inc. (Budget) and Marlene Mungle (Mungle) stipulate and agree to the following.

BACKGROUND:

- A. Budget obtained Alaska producer license number 9511 on 03/22/1991.
- B. Marlene Mungle obtained Alaska producer license number 6664 on 03/22/1991.
- C. On October 29, 2015 Thomas Mungle contacted division staff with an inquiry about the legality of his agency charging customers service fees. Division staff met with Mr. Mungle on October 30, 2015 and he told them Budget has been charging its customers service fees in addition to premiums for many years.
- D. In bulletins issued in 1999 (B99-03) and 2004 (B04-14) the division has explained the charging of service fees by agents is a prohibited practice.

E. On November 3, 2015 division investigators wrote to Budget to advise that they would be arriving at Budget's office to inspect records on November 18, 2015. When investigators arrived at Budget's office on November 18, 2016 they learned Budget does not keep physical records on its premises, but stores them electronically with a third party named QQ Solutions. Original documents are destroyed shortly after they are scanned.

F. On December 3, 2015 division investigators obtained subpoenas from the director for documents and records related to Budget's service fees for the time frame between January 1, 2009 through November 30, 2015 and on December 4, 2015 served them on Wells Fargo Bank and QQ Solutions.

G. In January 2016 division investigators received documents related to Budget's service fees from QQ Solutions and Wells Fargo Bank. Division investigators reviewed the documents and found Budget collected \$379,301.42 for 4,913 service fee transactions in the requested time frame.

H. In the course of the investigation of Budget's practice of charging service fees investigators learned that on November 10, 2015 Marlene Mungle requested a Budget employee alter insurance records prior to the arrival of division investigators on November 18, 2015.

I. The parties now agree and stipulate these insurance code violations, which could be raised by an Accusation to revoke, suspend, or invoke disciplinary sanctions against the licensees through a formal hearing process, will be

resolved by the following terms of agreement. The division will not pursue criminal action against Marlene Mungle for the violations discovered in this investigation.

TERMS OF AGREEMENT:

1. Budget agrees it collected unauthorized premiums in the form of service fees from January 2009 to December 2015 in violation of AS 21.27.550, AS 21.27.350(b), AS 21.09.210, AS 21.39.040, AS 21.42.160, and AS 21.27.360. Budget also agrees it failed to maintain records in violation of AS 21.27.350(b).
2. Marlene Mungle agrees she engaged in conduct reflecting untrustworthiness in violation of AS 21.27.410(a)(8).
3. These insurance code violations authorize the division, under AS 21.27.410(a)(2) and under AS 21.27.420(b), to take action on and condition Budget's license for four years under the following conditions:
 - a. No later than 15 days after the director approves this agreement Budget will pay \$10,241.14 in unpaid premium taxes.
 - b. Budget agrees to pay a civil penalty under AS 21.27.440(a) of \$379,301 with \$304,301 suspended. The unsuspended penalty of \$75,000 will be paid as follows: \$27,000 to be paid no later than 15 days after the date the director approves this written agreement; the remaining \$48,000 to be paid in twelve monthly payments of \$4,000, due on the first of month following the month of the first payment of \$27,000 is made.

c. In the event Budget violates the insurance code or regulations during the next 4 years the suspended portion of the fine referenced in paragraph b above may be reinstated. Budget will also be subject to any and all sanctions authorized by the insurance code including imposition of additional fines and penalties.

4. Marlene Mungle agrees to voluntarily surrender her producer license to the division no later than 15 days after the date the director signs this agreement. Marlene Mungle further agrees not to reapply to the division for a license for 5 years from the date the director signs this agreement. In the event Marlene Mungle applies for a license, the division will be under no obligation to issue Marlene Mungle a license.

5. Budget and Marlene Mungle agree Marlene Mungle will not have business or professional contact with the employees of Budget nor is she to have any ownership interest or business relationship, including management, supervision or operation however described, with Budget for 5 years from the date the director signs this agreement. Marlene Mungle will have until November 14, 2016 to relinquish her ownership interest in Budget Insurance, Inc. Termination of her business relationship in Budget Insurance, Inc. will be effective on the date the director signs the agreement.

6. Marlene Mungle and Budget acknowledge that they have been advised by legal counsel regarding the nature and purpose of this agreement and order and understand it. By signing this agreement Marlene Mungle and Budget

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understand they waive their right to receive a formal hearing and they give up their right to present oral and documentary evidence, to present rebuttal evidence, to cross examine witnesses, and to appeal the director's order after hearing to the superior court.

7. By entering this agreement Budget and Marlene Mungle understand and agree that any failure to comply with a requirement of this agreement, including the failure to timely make a penalty payment when due, will result in the automatic reinstatement of the \$304,301 suspended portion of the fine.


8. Budget and Marlene Mungle understand that failure to pay a civil penalty when due will be grounds, without hearing, to revoke Alaska license number 9511 pursuant to AS 21.27.440(b).

8. Budget and Marlene Mungle understand that this agreement is not binding on the parties unless and until the director signs the order approving the agreement.

DATED: 11/8/16

DIVISION OF INSURANCE

By:


Daniel Wilkerson
Assistant Attorney General

DATED: 11/10/16


Marlene Mungle

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DATED: 11-10-2016

BUDGET INSURANCE

By: Marlene Mungle
Marlene Mungle, President

By: Thomas Mungle
Thomas Mungle, Compliance Officer

DATED: 11-10-16

Todd A. Araujo
Todd Araujo
Counsel for Marlene Mungle and
Budget Insurance, Inc.

ORDER

IT IS ORDERED that this Stipulated Agreement and Order is adopted in full resolution of the issues in the case and shall constitute the final order in this matter.

DATED this 14th day of November, 2016.

Lori Wing-Hefer
Lori Wing-Hefer
Director of Insurance

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