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STATE OF ARIZONA

DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

In the Matter of:
GIBNEY, MICHAEL F.
(National Producer No. 17776603)

Respondent.

No. 23A- 017 -INS
CONSENT ORDER

The Arizona Department of Insurance and Financial Institutions (“Department”) has received evidence that **Michael F. Gibney (“Respondent”)** violated provisions of Arizona Revised Statutes (“A.R.S.”) Title 20. Respondent wishes to resolve this matter without the commencement of formal proceedings, and admits the following Findings of Fact are true, and consents to the entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent was at all material times licensed as an Arizona resident insurance producer, National Producer Number 17776603, with a line of authority in personal lines insurance. The Department first licensed Respondent on November 12, 2015. Respondent’s license is scheduled to expire on August 31, 2023.

2. Respondent’s business and mailing address of record with the Department is 3377 S. Price Rd # 3016 Chandler, Arizona 85248-3573. Respondent’s email address of record with the Department is michael@oxygenins.com.

3. On or about April 2, 2022, the Department received a complaint from Nationwide Insurance Company of America against Respondent.

1 4. On or about July 6, 2022, the Department received an additional complaint
2 from Nationwide Mutual Insurance Company against Respondent.

3 5. The complainants (collectively “Nationwide”) alleged that Respondent
4 provided false information regarding prior coverage on the vehicle insurance applications in
5 order to qualify applicants for coverage with Nationwide.

6 6. The Department commenced an investigation into this matter. The
7 Department’s investigation determined the following:

8 a) On or about February 24, 2022, Respondent bound a Nationwide
9 vehicle policy for M.F., effective February 22, 2022, to August 22, 2022. The
10 Declaration Pages provided with the application listed Clearcover Insurance
11 Company (“Clearcover”) as M.F.’s current insurer with the policy expiration
12 date February 25, 2022. On or about July 5, 2022, the Department contacted
13 Clearcover to inquire about M.F.’s policy. Clearcover advised the
14 Department that the policy number belonged to a different insured.

15 b) On or about February 25, 2022, Respondent bound a Nationwide
16 vehicle insurance policy for C.F., effective February 25, 2022, to August 25,
17 2022. The Automobile Policy Declarations provided with the application
18 listed Safeco Insurance Company (Safeco”) as the current insurer with the
19 policy expiration date February 27, 2022. On or about August 24, 2022, the
20 Department contacted Safeco to inquire about C.F.’s policy. Safeco’s
21 representative advised the Department that the policy did not exist.

22 c) On or about February 25, 2022, Respondent bound a Nationwide

1 vehicle insurance policy for D.R., effective February 25, 2022, to August 25,
2 2022. The Automobile Policy Declarations provided with the application
3 listed Liberty Mutual Insurance Company (“Liberty Mutual”) as the current
4 insurer with the policy expiration date February 28, 2023. On or about
5 August 24, 2022, the Department contacted Liberty Mutual to inquire about
6 D.R.’s policy. Liberty Mutual advised the Department that the policy number
7 is not a valid Liberty Mutual policy.

8 d) On or about February 11, 2022, Respondent bound a Nationwide
9 vehicle policy for S.S., effective February 11, 2022, to August 11, 2022. The
10 Automobile Policy Declarations provided with the application listed State
11 Farm Insurance Company (“State Farm”) as the current insurer with the policy
12 expiration date March 11, 2022. On or about August 24, 2022, the
13 Department contacted State Farm to inquire bout S.S.’s policy. State Farm
14 advised that the policy in question did not exist.

15 e) On or about February 11, 2022, Respondent bound a Nationwide
16 vehicle policy for R.R., effective February 11, 2022, to February 11, 2023.
17 The Policy History Request provided with the application listed AAA Auto
18 Insurance (“AAA”) as a current insurer with the policy expiration date
19 September 11, 2022. On or about August 24, 2022, the Department contacted
20 AAA to inquire bout R.R.’s policy. AAA advised the Department that the
21 policy did not exist.

22 f) On or about February 11, 2022, Respondent bound a Nationwide

1 vehicle policy for G.S., effective February 15, 2022, to August 15, 2022. The
2 Letter of Experience provided with the application listed Stillwater Insurance
3 Group ("Stillwater") as a current insurer with the policy expiration date March
4 20, 2022. On or about August 24, 2022, the Department contacted Stillwater
5 to inquire about G.S.'s policy. Stillwater advised the Department that the
6 policy did not exist.

7 g) On or about January 29, 2022, Respondent bound a Nationwide vehicle
8 policy for R.M., effective January 29, 2022, to July 29, 2022. The Personal
9 Auto Declaration provided with the application listed Kemper Insurance
10 Company ("Kemper") as the current insurer. On or about August 24, 2022,
11 the Departments contacted Kemper to inquire about R.M.'s policy. Kemper
12 advised the Department that the policy in question is valid; however, it
13 pertained to a different insurer and a different vehicle.

14 h) On or about November 11, 2022, the Department conducted two
15 separate interviews with Respondent. During both interviews, Respondent
16 denied that he created and/or supplied fraudulent information to the insurers
17 but that he failed to exercise due diligence in verifying the information and he
18 accepts full responsibility since he was the "submitter" and should have been
19 more diligent with "front line underwriting."

20 CONCLUSIONS OF LAW

21 7. The Director has jurisdiction over this matter.

22 8. Respondent's conduct, as described above, constitutes a violation of Title 20

1 or any rule, subpoena or order of the Director. A.R.S. § 20-295(A)(2).

2 9. Respondent's conduct, as described above, constitutes intentionally
3 misrepresenting the terms of an actual or proposed insurance contract or application for
4 insurance. A.R.S. § 20-295(A)(5).

5 10. Respondent's conduct, as described above, constitutes using fraudulent,
6 coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or
7 financial irresponsibility in the conduct of business in this state or elsewhere. A.R.S. § 20-
8 295(A)(8).

9 11. The director may deny, suspend for not more than twelve months, revoke or
10 refuse to renew an insurance producer's license. A.R.S. § 20-295(A).

11 12. Grounds exist, in addition to or instead of any suspension or revocation for the
12 Director to impose a civil penalty of not more than \$250.00 for each unintentional failure or
13 violation up to an aggregate civil penalty of \$2,500.00, or impose a civil penalty of not more
14 than \$2,500.00 for each intentional failure or violation, up to an aggregate civil penalty of
15 \$15,000.00. A.R.S. § 20-295(F).

16 **ORDER**

17 **IT IS HEREBY ORDERED THAT:**

18 13. Michael Gibney's Arizona insurance producer license, number 17776603, is
19 suspended for sixty (60) days commencing on June 1, 2023.

20 Effective this 5th day of May, 2023.

21 *Barbara Richardson*

22 Barbara D. Richardson, Director
Arizona Department of Insurance and Financial Institutions

CONSENT TO ORDER

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2 1. Respondent acknowledges that it has been served with a copy of the foregoing
3 Consent Order in the above-referenced matter, has read it, is aware of its right to an
4 administrative hearing in this matter and has knowingly and voluntarily waived that right.

5 2. Respondent accepts the personal and subject matter jurisdiction of the
6 Department over it in this matter.

7 3. Respondent acknowledges that no promise of any kind or nature has been
8 made to induce it to sign the Consent to Order and it has done so knowingly and voluntarily.

9 4. Respondent acknowledges and agrees that the acceptance of this Consent to
10 Order by the Director is solely to settle this matter and does not preclude the Department
11 from instituting other proceedings as may be appropriate now or in the future. Furthermore,
12 and notwithstanding any language in this Consent Order, this Consent Order does not
13 preclude in any way any other state agency or officer or political subdivision of this state
14 from instituting proceedings, investigating claims, or taking legal action as may be
15 appropriate now or in the future relating to this matter or other matters concerning
16 Respondent, including but not limited to violations of Arizona's Consumer Fraud Act.
17 Respondent acknowledges that, other than with respect to the Department, this Consent
18 Order makes no representations, implied or otherwise, about the views or intended actions
19 of any other state agency or officer or political subdivision of the state relating to this matter
20 or other matters concerning Respondent.

21 5. Respondent acknowledges and agrees that failure to correct the violations set
22 forth above in this Consent Order, or any repeat findings of the above violations in the

1 future, can result in disciplinary action which may include a greater civil money penalty and
2 suspension or revocation of its license.

3 6. Respondent waives all rights to seek an administrative or judicial review or
4 otherwise to challenge or contest the validity of this Consent Order and its accompanying
5 parts before any court of competent jurisdiction.

6 7. Respondent acknowledges that this Consent Order is an administrative action
7 that the Department will report to the National Association of Insurance Commissioners
8 (NAIC). Respondent further acknowledges that it must report this administrative action to
9 any and all states in which Respondent holds an insurance license and must disclose this
10 administrative action on any license application.


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5/4/23

DATE

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MICHAEL F. GIBNEY
(NATIONAL PRODUCER NO. 17776603)

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1 **COPY** of the foregoing delivered via email
this 5th day of May, 2023, to:

2 Michael F. Gibney
3 3377 S. Prince Road, #3016
4 Chandler, AZ 85248-3573
5 michael@oxygenins.com
6 Respondent

7 **COPY** of the foregoing delivered/emailed same date, to:

8 Deian Ousounov, Assistant Director
9 Gio Espinosa, Regulatory Legal Affairs Officer
10 Ana Starcevic, Paralegal Project Specialist
11 Cathy O'Neil, Consumer Regulatory Affairs Officer
12 Steven Fromholtz, Division Manager, Licensing
13 Linda Lutz, Legal Assistant, Licensing
14 Aqueelah Currie, Licensing Supervisor
15 Michael Vukson, Investigator
16 Arizona Department of Insurance and Financial Institutions
17 100 North 15th Avenue, Suite 261
18 Phoenix, Arizona 85007-2630

19 *Ana Starcevic*
20 _____
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