

LAWRENCE G. WASDEN
Attorney General

RICHARD B. BURLEIGH, ISB No. 4032
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street
P.O. Box 83720
Boise, Idaho 83720-0043
Telephone No. (208) 334-4219
Facsimile No. (208) 334-4298
richard.burleigh@doi.idaho.gov

FILED 

NOV 19 2012

Department of Insurance
State of Idaho

Attorneys for the Department of Insurance

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE

STATE OF IDAHO

In the Matter of:

HAMMERMAN & GAINER, INC.,
Third Party Administrator License No. 335518,

Respondent.

Docket No. 18-2807-12

**STIPULATION RESOLVING
VIOLATIONS OF IDAHO
INSURANCE CODE**

The parties herein, namely the Idaho Department of Insurance (“**Department**”) and its counsel of record, Richard B. Burleigh, Deputy Attorney General, and HAMMERMAN & GAINER, INC., Third Party Administrator License No. 335518, do hereby agree and stipulate to the following facts and conclusions of law:

1. That the Director of the Idaho Department of Insurance has jurisdiction over this matter pursuant to title 41, Idaho Code.
2. That HAMMERMAN & GAINER, INC. (“**Respondent**”), was granted Third Party Administrator (“**TPA**”) License No. 335518 effective January 11, 2010, pursuant to the previous version of chapter 9, title 41, Idaho Code, which chapter was replaced in its entirety in 2010 by the current version of chapter 9, title 41, Idaho Code.

3. That Respondent's TPA License No. 335518 is scheduled to expire as of January 1, 2014.

4. That Respondent was notified by letter dated February 22, 2012, and sent by U.S. First Class Mail, postage prepaid, that it would be required to file either a home state license application pursuant to Idaho Code § 41-911 or a non-resident application pursuant to Idaho Code § 41-912. The notice informed Respondent that the filing fee for the application would be waived by the Department.

5. That Respondent failed to file an application for either a home state or non-resident TPA license pursuant to the requirements of chapter 9, title 41, Idaho Code, and the Department's February 2012 notice.

6. That, pursuant to Idaho Code § 41-914, all licensed TPAs are required to file an annual report with the Department on or before July 1 of each year.

7. That RESPONDENT failed to file an annual report on or before July 1, 2012.

8. That, on or about July 5, 2012, Respondent was notified by letter sent by certified mail that it had failed to file the required annual report and that no request for an extension of time had been received by the Department.

9. That the Department's July 5, 2012 letter required Respondent to file the annual report by July 26, 2012.

10. That Respondent received and signed for the certified July 5, 2012 letter on July 13, 2012.

11. That Respondent filed an annual report on July 5, 2012 on Form TPA010-C.

12. That on July 16, 2012, RESPONDENT contacted the Department concerning the July 5, 2012 notice.

13. That the Department assured RESPONDENT that the Department considered the

filing of the annual report on July 5, 2012 as timely and that the July 5, 2012 letter and the annual report filed by RESPONDENT likely crossed in the mail.

14. That following the Department's subsequent review of the annual report filed by RESPONDENT, the Department determined that the RESPONDENT filed the annual report on the incorrect form, that the filing was incomplete and that it should have been filed on Form TPA010-A.

15. That on July 17, 2012, the Department sent an email to RESPONDENT advising it that it was required to amend the annual report filing so that it was on the correct form.

16. That on July 17, 2012, the email was followed up by a phone conversation between the Department and RESPONDENT at which time RESPONDENT indicated that it would amend the filing by filing Form TPA010-A.

17. That the Department provided RESPONDENT with a deadline of August 1, 2012 by which to file the correct form.

18. That RESPONDENT failed to file an amended annual report on the correct form on or after August 1, 2012.

19. That Respondent continues to operate as an administrator in Idaho notwithstanding its failure to comply with the requirements of the Idaho Code.

20. That, pursuant to Idaho Code § 41-915(2)(a), the Department may seek revocation of Respondent's TPA license for failure to comply with the Idaho Code

21. That, pursuant to Idaho Code §§ 41-117 and 41-915(4), the Department may seek general penalties against Respondent of up to five thousand dollars (\$5,000.00) per violation of the Idaho Insurance Code.

22. That, in lieu of a contested enforcement action, the parties agree that this matter can be brought to a close by a negotiated and stipulated settlement.

23. Respondent therefore agrees as follows:

- a. Respondent shall pay a five hundred dollar (\$500.00) penalty to the Department within ten (10) business days following the execution of this Stipulation.
- b. Respondent shall file an application for either a home state license pursuant to Idaho Code § 41-911 or a non-resident license pursuant to Idaho Code § 41-912 (which application shall satisfy the requirement to file an annual report pursuant to Idaho Code § 41-914) within thirty (30) days from the execution of this Stipulation.
- c. In connection with the application in item (b) above, Respondent shall also pay a \$300 application fee to be submitted with the application.
- d. If Respondent fails to comply with the preceding, Respondent agrees that the Department may revoke Respondent's TPA license without further notice or hearing.

24. Nothing in this Stipulation shall affect the Department's review of Respondent's TPA license application, which review and approval, if appropriate, shall proceed in the Department's normal course.

25. Respondent acknowledges that it has had the opportunity to consult with counsel concerning this Stipulation. Respondent waives its right to notice and hearing at which it may be represented by counsel, present evidence and examine witnesses. Respondent waives its right to submit this matter for review by a court of competent jurisdiction.

26. The parties agree that the terms of this Stipulation are appropriate and proper under the circumstances referenced herein, and that they have entered into this Stipulation knowingly, voluntarily and with full knowledge of any rights they may be waiving thereby.

27. The parties hereby waive the right to seek reconsideration and judicial review of this Stipulation or the violations of the Idaho Code referenced herein.

AGREED THIS 15th day of November, 2012.

HAMMERMAN & GAINER, INC.,
a Louisiana corporation

By: [Signature]
Name: Cherit A. Pinne
Its: COO

STATE OF Louisiana
Parish of Orleans ss.
County of Orleans

On this 15th day of November, 2012, before me, the undersigned, a Notary Public in and for said State, personally appeared Cherit A. Pinne, the Chief Operating Officer of HAMMERMAN & GAINER, INC., a Louisiana corporation, who executed the foregoing instrument on behalf of said company, and acknowledged to me that the said instrument is the free and voluntary act and deed of said company, for the uses and purposes therein mentioned.

WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

S.J. SPIVEY (LSB#25257)
NOTARY PUBLIC
PARISH OF ORLEANS
STATE OF LOUISIANA
MY COMMISSION IS ISSUED FOR LIFE

[Signature]
Notary Public in and for the
State of Louisiana
Residing at New Orleans, LA
My commission expires: My commission is for life.

AGREED THIS 19th day of November, 2012.

IDAHO DEPARTMENT OF INSURANCE

By: Georgia Siehl
Georgia Siehl, CPA, CFE
Bureau Chief, Chief Examiner
Idaho Department of Insurance

Approved as to Form:

OFFICE OF THE ATTORNEY GENERAL
STATE OF IDAHO

By: A. Rene Martin
for Richard B. Burleigh
Deputy Attorney General
Attorney for the Idaho Department of Insurance

IT IS SO ORDERED.

DATED this 19th day of November, 2012.

STATE OF IDAHO
DEPARTMENT OF INSURANCE

For William W. Deal, Dep. Director
WILLIAM W. DEAL
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of November, 2012, I caused a true and correct fully-executed copy of the foregoing STIPULATION RESOLVING VIOLATIONS OF IDAHO INSURANCE CODE to be served on the following by the designated means:

Hammerman & Gainer, Inc.
PO Box 2827
La Place, LA 70069-2827

- first class mail
- certified mail
- hand delivery
- via facsimile

Richard B. Burleigh
Deputy Attorney General
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83720-0043

- first class mail
- certified mail
- hand delivery
- via facsimile



Teresa Jones