

**STATE OF OREGON  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
INSURANCE DIVISION**

In the Matter of **Michelle D. Gonzalez.** ) **FINAL ORDER**  
 ) Case No. INS 01-11-004

The Director of the Oregon Department of Consumer and Business Services (director), by and through the Insurance Division, commenced the above entitled administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take disciplinary action against Michelle D. Gonzalez (Gonzalez).

On November 27, 2001, the director issued a Notice of Proposed Action (Notice), pursuant to ORS 183.415 and Oregon Administrative Rules (OAR) 137-003-505, proposing to revoke Gonzalez's Oregon insurance agent license pursuant to ORS 744.013(1)(a), and to assess Gonzalez a civil penalty of \$1,732.39 pursuant to ORS 731.988(1), for allegedly violating ORS 744.013(2)(d) as specifically described therein. The Notice informed Gonzalez that Gonzalez had a right to a hearing and to be represented by an attorney at the hearing. The Notice also informed Gonzalez that if the director issued a Final Order by default, then the director designated a portion of the Insurance Division's investigation file in this matter as part of the record for the purpose of proving a prima facie case upon default.

The director did not receive from or on behalf of Gonzalez any request for a hearing. The director determined that the designated portion of the Insurance Division's investigation file in this matter proved a prima facie case and no hearing was necessary. Consequently, the director did not hold any hearing in this matter.

Therefore, the director makes the following final decision in this proceeding in accordance with ORS 731.248 and 183.470, and related rules.

**Findings of Fact**

Licensing

Gonzalez was licensed in Oregon as a resident insurance agent from 9/21/99 to 9/30/00. On 9/30/00, Gonzalez' license expired because Gonzalez did not renew it.

Gonzalez' license number was 615956. Gonzalez' last recorded residence address was 406 E 9th Street #22, Newberg, OR 97132, and residence telephone number was 503-538-1899. Gonzalez' last recorded business address was at 4505 N. Channel, Portland, OR 97217, and business telephone number was 503-286-5716.

Misappropriation of Insurance Premiums

At all relevant times, David J. Jodoin (Jodoin) was an insurance agent licensed in Oregon and appointed by various insurers within the Farmers Insurance Group of Companies (collectively referred to hereinafter as Farmers). Jodoin employed Gonzalez in his insurance agency in Tualatin, Oregon. Gonzalez was also licensed in Oregon as an insurance agent but was not appointed by Farmers. From June 1999 to December 1999, Jodoin was out of the office on a leave of absence, and Gonzalez was the only person in the office. Gonzalez was solely responsible for collecting, accounting for and depositing the insurance premiums received during this period.

From September 21, 1999 to November 29, 1999, in five transactions, Gonzalez received from three persons residing in Oregon a total of \$951.98 as payment of insurance premiums for insurance provided by one or more insurers within the Farmers Insurance Group of Companies (collectively referred to hereinafter as Farmers). Gonzalez gave each person a receipt for their payment. Gonzalez sent to Farmers a total of \$219.59 of the premiums. Gonzalez did not send to Farmers the balance of \$732.39. The date of receipt, receipt number, name of the insured, and amount received by Gonzalez, amount Gonzalez sent to Farmers, and the net amount misappropriated or withheld, relative to each transaction is as follows:

<u>Insured</u>	<u>Receipt No.</u>	<u>Date Rcvd.</u>	<u>Amt. Rcvd.</u>	<u>Date Sent</u>	<u>Amt. Sent</u>	<u>Difference</u>
Dominique Carr	ABP810568	09/21/99	\$200.00	n/a	\$0.00	\$200.00
Billy O'Neal	ABP810586	09/21/99	\$121.98	9/30/00	\$21.98	\$100.00
Lori Pratte	ABP810591	10/04/99	\$205.00	n/a	\$0.00	\$205.00
Lori Pratte	ABP810609	11/02/99	\$320.00	11/10/99	\$120.00	\$200.00
Lori Pratte	ABP810613	11/29/99	<u>\$105.00</u>	12/2/99	<u>\$77.61</u>	<u>\$27.39</u>
Total			\$951.98		\$219.59	\$732.39

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**Ultimate Findings of Facts and Conclusions of Law**

Gonzalez violated ORS 744.013(2)(d) in five instances by misappropriating insurance premiums that she received in the course of transacting insurance in Oregon.

**Order**

The Oregon insurance agent license issued to Gonzalez shall be revoked on the date of this Final Order, pursuant to ORS 744.011 and 744.013(1)(a).

Gonzalez shall pay a civil penalty of \$1,732.39 pursuant to ORS 731.988. Payment shall be made in the form of a check payable to the "Department of Consumer and Business Services" for the full amount due. Payment shall be delivered or mailed to the Insurance Division at 350 Winter Street NE, Room 440, Salem, OR 97301-3883. Payment shall be received by the Insurance Division by 5:00 PM (PT) on the 71<sup>st</sup> calendar day after the date of this Final Order pursuant to ORS 183.090(2).

**Notice of Judicial Review**

Pursuant to ORS 183.480 and 183.482, Gonzalez may request the Oregon Court of Appeals to review this Final Order by filing a written petition for judicial review with the court within 60 calendar days following the date this Final Order is personally delivered or mailed to Gonzalez, whichever occurs first.

Dated January 7, 2002.

/s/ Mary C. Neidig  
Mary C. Neidig  
Director  
Department of Consumer and Business Services

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