

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

In the Matter of **Jeffrey P. Bartlett.**

) **FINAL ORDER**
) Case No. INS 02-04-016

The Director of the Oregon Department of Consumer and Business Services (director) commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take disciplinary action against Jeffrey P. Bartlett (Bartlett).

History of the Proceeding

On 5/14/02, the director issued a Notice of Proposed Action (Notice), pursuant to ORS 183.415 and Oregon Administrative Rules (OAR) 137-003-0505. The Notice informed Bartlett that the director proposed to take certain disciplinary action against Bartlett, that Bartlett was entitled to a hearing, and that Bartlett had to request a hearing in writing within 21 days if Bartlett wanted a hearing.

On 5/23/02, the director received from Bartlett a timely written request for a hearing.

On 5/29/02, the director referred the request to the Hearing Officer Panel (HOP).¹

On 6/26/02, HOP issued a Notice of Hearing scheduling a hearing to be held on 9/26/02.

On 7/22/02, the director issued an Amended Notice of Proposed Action and Hearing (Amended Notice). The Amended Notice continued to propose to take the same action and allege that Bartlett violated the same laws as in the Notice, but more explicitly described how Bartlett violated the cited laws. The Amended Notice also continued to schedule the hearing to be held on 9/26/02.

On 8/5/02, HOP issued an Amended Notice of Hearing.

¹ Contested case hearings are scheduled and conducted, and proposed orders are issued, by the Hearing Officer Panel of the Employment Department as required by Section 9(1) and (3)(h), Chapter 849, Oregon Law 1999 and in accordance with the OAR 137-003-0501 to 137-003-0700.

On 9/26/02, HOP held a hearing. The hearing was conducted by Ella D. Johnson, a hearing officer of HOP. The director was represented by Kathleen Dahlin, an Assistant Attorney General. The director called the following witnesses: Bartlett, Timothy Bontrager, Gary Holliday, Sylvia Huff, and Scott Wyke. The director offered the following documentary evidence: Exhibits A1 to A18. The director's exhibits were admitted without objection. Bartlett was present, and was represented by Lawrence W. Erwin, an attorney. Bartlett called himself as his only witness. Bartlett did not offer any documentary evidence.

On 10/18/02, HOP issued a Proposed Order pursuant to ORS 183.460 and OAR 137-003-0645. The Proposed Order recommended that the director take the action proposed in the Amended Notice because it concluded that Bartlett committed all of the violations that were alleged in the Amended Notice. The Proposed Order informed Bartlett that he could file with the director written exceptions to the Proposed Order within 30 days after the Proposed Order was served on Bartlett, pursuant to OAR 137-003-0650. On the same date, HOP mailed a copy of the Proposed Order to Bartlett.

On 10/30/02, the director timely received from Bartlett written exceptions to the Proposed Order.

On 11/6/02, the director received from Insurance Division a written response to Bartlett's exceptions. A copy of the response was mailed to Bartlett. The director did not receive from Bartlett any response to the Insurance Division's response.

The director considered Bartlett's exceptions and the Insurance Division's response, and determined that the exceptions did not have any merit.

Therefore, the director now makes the following final decision in this proceeding pursuant to ORS 731.248 and 183.470, and OAR 137-003-0655 and 137-003-0665.

Findings of Fact, Conclusions of Law and Opinion

The director adopts, and incorporates herein by this reference, the facts, conclusions and reasoning of the Proposed Order dated 10/18/02 issued in this proceeding as the facts, conclusions and opinion of this order except as follows:

1. As alleged in the Amended Notice, Bartlett violated ORS 746.100 by making false, not fraudulent, representations on or relative to three insurance applications to the insurer.

2. As proposed in the Amended Notice, the director proposed to revoke Bartlett's Oregon insurance agent license *and* assess him a civil penalty of \$2,500 for *all* of the violations. The director did *not* propose to revoke Bartlett's license for violating only ORS 746.100, and propose to assess Bartlett a civil penalty for violating only ORS 731.296 and 744.028(1).

Order

Pursuant to ORS 744.013(1) (1999), the Oregon license as an insurance agent issued to Bartlett shall be revoked on the date of this order.

Pursuant to ORS 731.988, Bartlett shall pay a civil penalty of \$2,500. The payment shall be made in the form of a check payable to the "Department of Consumer and Business Services" for the full amount due. The payment shall be delivered or mailed to the Insurance Division at 350 Winter Street NE, Room 440, Salem, OR 97301-3883. The payment shall be received by the Insurance Division by 5:00 PM (PT) on the 71st calendar day after the date of this order pursuant to ORS 183.090(2).

Notice of Judicial Review

Pursuant to ORS 183.480 and 183.482, Bartlett may request the Oregon Court of Appeals to review this order by filing a written petition for judicial review with the court within 60 calendar days after the date this order was sent to Bartlett.

Dated December 30, 2002

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

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