

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

In the Matter of **Rita Rey**.

) **FINAL ORDER**
) Case No. INS 02-09-006

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 Rita Rey (Rey).

On 9/10/02, the director issued a Notice of Proposed Action, pursuant to ORS 183.415 and related rules. The notice informed Rey that the director proposed to take certain disciplinary action against Rey, that Rey was entitled to a hearing, and that Rey had to request a hearing in writing within 21 days if Rey wanted a hearing. The notice also informed Rey that the record of the proceeding then to date, including the designated portion of the Insurance Division's investigation file on Rey, would automatically become part of the contested case record for the purpose of proving a prima facie case if Rey did not request a hearing within the time allowed to make the request.

The director did not receive a request for a hearing.

The director has reviewed the record of this proceeding to date, and finds that it proves a prima facie case.

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

Findings of Fact and Conclusions of Law

Licensing

Rey has been licensed in Oregon as a nonresident insurance agent since 5/23/00. Rey's current license number is 158494.

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Conviction of Misdemeanor Involving Moral Turpitude

Rey is subject to disciplinary action pursuant to ORS 744.013(2)(e) (1999) in two instances because of the following circumstances.

1. On 5/18/89, Rey was convicted by the San Bernardino County Municipal Court in the State of California, in the criminal case entitled *The State of California v. Rita Rey*, case number M0216478, of one count of the crime of petty theft from a merchant, pursuant to the California Penal Code § 488 / 490.5. Rey committed the above crime by engaging in unspecified conduct on 9/28/88.

2. On 4/10/92, Rey was convicted by the San Bernardino County Municipal Court in the State of California, in the criminal case entitled *The State of California v. Rita Rey*, case number M0136524, of one count of the crime of petty theft from a merchant, pursuant to the California Penal Code § 488 / 490.5. Rey committed the above crime by engaging in unspecified conduct on 3/17/92.

Each of the above crimes, if committed in Oregon, would be at least the crime of theft in the third degree, pursuant to ORS 164.043, which is a Class C misdemeanor. Theft is a misdemeanor involving moral turpitude because it requires the elements of (1) intent or knowledge, (2) dishonesty, and (3) involves harm to a specific person. See *In re Chase*, 299 Or 391, 402, 702 P2d 1082 (1985)(a crime involving moral turpitude requires the elements of (1) intent, (2) fraud, deceit or dishonesty; and (3) harm to a specific person); *In re Carstens*, 297 Or. 155, 163 (1984)(theft in the first degree is a misdemeanor involving moral turpitude).

Making False Statement on Insurance Agent License Application

Rey violated ORS 744.013(2)(b) (1999) in one instance by falsely stating on her application dated 2/22/00 for a nonresident insurance agent license in Oregon that she had not been convicted of a crime when she had been convicted of the above described crimes.

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Disciplinary Action Taken by Other States

Rey is subject to disciplinary action pursuant to ORS 744.013(2)(L) (1999) in one instance because on 3/9/01 the Insurance Commissioner of the State of Washington issued an order, number D01-20, revoking Rey's nonresident insurance agent license in that state effective on 3/29/01. The Insurance Commissioner took the action because Rey falsely stated on her application for a nonresident insurance agent license in that state that she had not been convicted of a crime when she had been convicted of the above described crimes.

Order

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

Notice of Judicial Review

Pursuant to ORS 183.480 and 183.482, Rey 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 Rey.

Dated October 29, 2002

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

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