

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

In the Matter of **Kenneth L. Ott.**

) **STIPULATION** and
) **FINAL ORDER**
) Case No. INS 02-12-021

STIPULATION

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

Ott enters into this Stipulation, pursuant to ORS 183.415(5), to conclude this proceeding without further administrative or judicial proceedings.

Ott waives the right to receive a Notice of Proposed Action, to receive a notice of the rights of a party and procedures in contested cases, to have a hearing, to be represented by an attorney at the hearing, and to judicial review of the Final Order.

Ott admits and agrees to the following facts, conclusions, and action.

Facts and Conclusions

Licensing

Ott has been licensed in Oregon as a nonresident insurance agent since 12/27/01. Ott's current license number is 173991. Ott's last recorded residence address is in Amarillo, Texas.

Conviction of Crime

Ott is subject to disciplinary action pursuant to ORS 744.013(2)(e) (1999) in one instance because of the following circumstances. On 1/9/95, Ott was convicted, based on a plea of guilty, by the General District Court in Fairfax County, Virginia, in the criminal case, number unknown, of one count of the crime of embezzlement, a misdemeanor, pursuant to Code of Virginia §18.2-111. Ott committed the above crime by “wrongfully and fraudulently embezzl[ing] [at least \$100] from CVS Store #1390, by virtue of his office, trust, or employment.” Such crime, if committed in Oregon, would be the crime of theft in the second degree, a misdemeanor, pursuant

to ORS 164.045. The crime of 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 (payee). See *In re Chase*, 299 Or 391, 402, 702 P2d 1082 (1985)(a crime involving moral turpitude requires the elements of intent; fraud, deceit or dishonesty; and harm to a specific person); *In re Carstens*, 297 Or 155, 163 (1984)(theft is a misdemeanor involving moral turpitude).

Made False Statement on License Application

Ott violated ORS 744.013(2)(b) (1999) in one instance by engaging in the following conduct. On or about 12/3/01, the Insurance Division received from Ott an application dated 10/31/01 for an Oregon nonresident insurance agent license. On the application, Ott answered “No” to question 15 which asked “Are you currently under indictment for, or have you been convicted of, any misdemeanor or felony?” Ott’s answer was false and he knew that it was false because Ott had been convicted of the crime described above.

Failure to Report Disciplinary Action by Other State Insurance Regulator

Ott violated ORS 744.089(1) in one instance by engaging in the following conduct. On 4/24/02, the Insurance Commissioner of the State of Washington issued an order, number D 02-50, assessing Ott a civil penalty of \$250. The Insurance Commissioner took the action because Ott falsely stated on his application for a Washington nonresident insurance agent license that he had never been convicted of a crime when in fact he had been convicted of the crime described above. Ott was required by ORS 744.089(1) to notify the Insurance Division of the action, and provide a copy of the order, by 5/24/02. Ott has not notified the Insurance Division of the action or provided a copy of the order.

Action

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

Dated January 19, 2003

/s/ Kenneth L. Ott
Kenneth L. Ott

FINAL ORDER

The director adopts, and incorporates herein by this reference, the above Stipulation as the director's final decision in this proceeding.

Dated February 11, 2003

/s/ Cory Streisinger
Cory Streisinger
Director
Department of Consumer and Business Services

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