

period from 10/16/98 to 10/16/99, and (2) Rosser knew that ACA had rescinded the policy for non payment of premium.

2. On or about 10/21/99, Rosser issued or caused to be issued to the Oregon Construction Contractors Board (CCB) a Certificate of Insurance representing that Austin Mutual Insurance Company (AMIC) had issued to Hert a commercial liability insurance policy, number CLP 00451236, effective from 10/16/99 to 10/16/00. This representation was false and Rosser knew that it was false because Rosser had not sent and did not subsequently send any application to AMIC, AMIC did not receive from Rosser any application, and AMIC did not issue any policy to Hert.

3. On or about 10/22/99, Rosser sent to Hert a memo dated 10/22/99 stating that “we sent out the app[lication for commercial liability insurance] to the company [AMIC] and the certificate[] to the CCB. You should be receiving a policy [in] about 4 weeks with the information you need.” Enclosed with the memo was a Certificate of Insurance dated 10/21/99 issued by Rosser to CCB, and a computer generated Payment Receipt. This representation was false and Rosser knew that it was false because Rosser had not sent and did not subsequently send any application to AMIC, AMIC did not receive from Rosser any application, and AMIC did not issue any policy to Hert.

4. On or about 11/18/99, Rosser issued or caused to be issued to CCB a Certificate of Insurance representing that AMIC had issued to Hert a commercial liability insurance policy, number CLP 00451236, effective from 10/16/99 to 10/16/00. This representation was false and Rosser knew that it was false because Rosser had not sent and did not subsequently send any application to AMIC, AMIC did not receive from Rosser any such application, and AMIC did not issue any such policy to Hert.

5. On or about 9/27/00, Rosser sent to Hert a memo dated 9/27/00 stating that “renewal on your bond and [commercial liability] insurance is coming up on 10/16/00.” This representation that an insurer had issued to Hert a commercial liability insurance policy effective from 10/16/99 to 10/16/00 was false and Rosser

knew that it was false because Rosser had not sent any application for such policy to any insurer, and thus no insurer had issued to Hert any such policy for this period.

6. On or about 10/12/01, Rosser sent to Hert a memo dated 10/12/01 stating “the rate went up with Zurich so I switch[ed you] to Assurance Co. of America.” This representation that “Zurich” had issued to Hert a commercial liability insurance policy effective from 10/16/00 to 10/16/01 was false and Rosser knew that it was false because (1) no insurer named “Zurich,” had issued any insurance to Hert, (2) ACA, an insurer within the Zurich group of insurers, had issued to Hert such a commercial liability insurance policy, number SCP36892108, for the period from 10/16/00 to 10/16/01, but rescinded such policy for non payment of premium, and (3) Rosser knew that ACA had rescinded the policy by making a computer diary note on 10/12/01 stating that the “policy from last year went out of force for non payment.”

7. On or about 5/15/01, Rosser completed an application, purportedly by Charlene Treanor (Treanor) of Sandy, Oregon, for homeowners insurance to be provided through Mutual Insurance Corporation dba Mutual Insurance Services by Terra Nova Insurance Company, Ltd., an eligible surplus lines insurer. Rosser signed Treanor’s name on the application without Treanor’s knowledge or consent.

8. On or about 4/23/02, Rosser issued or caused to be issued to Pinnacle Development dba A Cut Above Siding, of Portland, Oregon, a Certificate of Insurance representing that National Council on Compensation Insurance, Inc. (NCCI), on behalf of a to-be-assigned insurer, had issued to UVP a workers’ compensation insurance policy, number 80319485. This representation was false and Rosser knew that it was false because (1) Rosser knew that the policy number was for a workers’ compensation insurance policy that TIG Insurance Company (TIG) had issued to UVP for the period from 3/8/01 to 3/8/02 but was not renewed and thus was not then effective, and (2) Rosser had not sent, and did not send until 8/28/02, to NCCI an application for a new insurance policy.

9. On or about 4/23/02, Rosser issued or caused to be issued to Centex Homes of Portland, Oregon, a Certificate of Insurance representing that NCCI, on behalf of a

to be assigned insurer, had issued to UVP a workers' compensation insurance policy, number 80319485. This representation was false and Rosser knew that it was false because (1) Rosser knew that the policy number was for a workers' compensation insurance policy that TIG had issued to UVP for the period from 3/8/01 to 3/8/02 but was not renewed and thus was not then effective, and (2) Rosser had not sent, and did not send until 8/28/02, to NCCI an application for a new insurance policy.

10. On or about 9/4/02, Rosser issued or caused to be issued to Paragon Tile and Stone Inc. of Tigard, Oregon, a Certificate of Insurance representing that NCCI, on behalf of a to be assigned insurer, had issued to UVP a workers' compensation insurance policy, number 80319485. This representation was false and Rosser knew that it was false because (1) Rosser knew that the policy number was for a workers' compensation insurance policy that TIG had issued to UVP for the period from 3/8/01 to 3/8/02 but was not renewed and thus was not then effective, and (2) Rosser had applied for a new insurance policy, but (3) Rosser knew that NCCI had not and would not receive by 9/5/02 the premium for the insurance in order to bind the new insurance.

Failure to Keep Accurate Insurance Premium Trust Account Records

Rosser violated OAR 836-074-0045 by engaging in the following conduct. On or about 10/22/99, Rosser recorded in his insurance premium trust account computerized accounting system information that Rosser had received from Hert \$419 in cash as payment of the premium for a commercial liability insurance policy, number CLP 00451236, issued by AMIC. Rosser then printed a Payment Receipt reflecting this information and sent the receipt to Hert. This information was not correct. On or about 10/16/98, Ross had received from Hert \$420 in the form of a check as payment of the initial premium for a commercial liability insurance policy, SCP33971251, to be issued by ACA to Hert. Hert did not pay to Rosser any other money for insurance.

Failure to Truthfully Respond to Director's Inquiry

Rosser violated ORS 731.296 in one instance by engaging in the following conduct. On 7/17/02, an investigator with the Insurance Division interviewed Rosser in person about the Treanor transaction described above. The investigator asked Rosser if Treanor signed the application. Rosser said “[S]he couldn’t have because she couldn’t have gotten there [at Rosser’s office] that day [on or about 5/15/01].” The investigator then asked Rosser who signed Treanor’s name on the application. Rosser answered “I don’t know.” This representation was false and Rosser knew that it was false. During the same interview, the Insurance Division investigator told Rosser that Treanor and another person had told the investigator that Rosser had told them that he had signed the application, and that Rosser had asked Treanor not to tell the Insurance Division that he had signed the application because he could “lose his license.” The investigator then asked Rosser if he signed Treanor’s name on the application. Rosser answered “Yes, I did.”

Action

Pursuant to ORS 744.013(1) (1999) and 744.074(1), the license as an insurance agent issued to Rosser shall be revoked on the date of this Final Order.

In consideration of the director not assessing Rosser a civil penalty, pursuant to ORS 731.988, Rosser agrees to the following. Rosser will not apply for any license authorized by ORS Chapter 744. Rosser will not own in whole or in part any business organization that is issued any license authorized by ORS Chapter 744. Rosser will not be or act as a director, officer, or employee of; an independent contractor for; or in any other capacity for or on behalf of, any individual or business organization that is issued any license authorized by ORS Chapter 744.

Dated February 20, 2003

/s/ James O. Rosser
James O. Rosser

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FINAL ORDER

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

Dated March 7, 2003

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

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