

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

In the Matter of **Paula L. Birchfield.**

) **FINAL ORDER**
) Case No. INS 03-03-011

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 enforcement action against Paula L. Birchfield (Birchfield).

History of the Proceeding

On June 24, 2003, the director issued a notice of proposed action, pursuant to ORS 183.415 and Oregon Administrative Rules (OAR) 137-003-0505. The notice informed Birchfield that the director proposed to take certain enforcement action against Birchfield, that Birchfield was entitled to a hearing, and if Birchfield wanted a hearing then Birchfield had to request a hearing in writing within 21 days.

On July 15, 2003, the director received from or on behalf of Birchfield a written request for a hearing. The director received the request within the time period specified in the notice pursuant to OAR 137-003-0505(1)(f).

On July 31, 2003, the director issued an amended notice of proposed action. The notice informed Birchfield that the director proposed to take the same enforcement action but alleged additional reasons for taking the action. The notice also informed Birchfield that she did not need to request a hearing again.

Also on July 31, 2003, the director referred Birchfield's request for a hearing to the Office of Administrative Hearings (OAH).

On September 5, 2003, OAH issued a notice scheduling a hearing to be held on November 20, 2003.

On October 16, 2003, OAH issued a notice rescheduling the hearing to be held on February 19, 2004.

On February 19, 2004, OAH held a hearing. The hearing was conducted by Ella D. Johnson, an administrative law judge of OAH. The director, by and through the Insurance Division, appeared and was represented at the hearing by Kathleen Dahlin, an Assistant Attorney General. The Insurance Division called Milton Birchfield, Kate Weathers-Anderson, Terri Gaubutt, Sam Soller and Rich Zafuto as its witnesses. The Insurance Division offered Exhibits A1 through A13 as its documentary evidence. All of the Insurance Division's exhibits were admitted into the record. Birchfield appeared at the hearing by telephone and represented herself. Birchfield called Ashley Sade, her daughter, as her only witness. Birchfield offered Exhibits R1 through R12 as her documentary evidence. Birchfield's exhibits R1 to R2 and R12 were admitted into the record. Birchfield's exhibits R3 to R11 were not admitted because they were duplicates of documents admitted in the Insurance Division's exhibit A11.

On March 26, 2004, OAH issued a proposed order pursuant to ORS 183.460 and OAR 137 -003 -0645. The proposed order found that Birchfield committed all of the violations that were alleged in the notice and recommended that the director take the action initially proposed in the notice. The proposed order informed Birchfield that she could file with the director written exceptions to the proposed order within 30 days after the proposed order was sent to Birchfield, pursuant to OAR 137-003-0650. On the same date, OAH mailed a copy of the proposed order to Birchfield.

The director did not receive from Birchfield any exceptions to the proposed order.

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 findings of fact, conclusions of law, and opinion of proposed order as the facts, conclusions, and reasoning of this final order except the text on page 6 that states "the propriety of

the sanction” so that it is clear that the director does not have a burden of proving the propriety of the sanction by a preponderance of the evidence.¹

Order

Pursuant to ORS 744.013(1) (1999) and 744.011, Birchfield’s Oregon insurance agent license is revoked on the date of this order.

Notice of Right to Judicial Review

The party may have the right to appeal this order to the Oregon Court of Appeals pursuant to ORS 183.480 and 183.482. A party may appeal the order by filing a written petition for judicial review with the Court of Appeals in accordance with the current Oregon Rules of Appellate Procedure. The Court of Appeals must receive the petition within 60 days from the date the order was served on the party. If the order was personally delivered to a party, then the date of service is the day the party received the order. If the order was mailed to a party, then the date of service is the day the order was mailed to the party, not the day the party received the order. If a party does not file a petition within the 60-day time period, then the party will lose the right to appeal the order. If a party appeals the order, the party should also send a copy of the petition to the Insurance Division by delivering it to the Labor and Industries Building, 350 Winter Street NE, Room 440 (4th Floor), Salem, Oregon; or mailing it to PO Box 14480, Salem, OR 97309-0405, or faxing it to 503-378-4351; or e-mailing it to mitchel.d.curzon@state.or.us.

Dated May 13, 2004

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

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¹ See *In re Karen M. Thatcher*, Case No. INS 02-04-015, Final Order, page 9 footnote 5.