

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

In the Matter of **Chad S. Rutherford.**

) **FINAL ORDER**

) Case No. INS 03-10-008

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 Chad S. Rutherford (Rutherford).

On 11/7/03, the director issued a notice of proposed action, pursuant to ORS 183.415 and related rules. The notice informed the party that the director proposed to take certain enforcement action against the party, the party was entitled to a hearing, and the party had to request a hearing in writing within 21 days if the party wanted a hearing. The notice also informed the party that the record of the proceeding then to date, including the designated portion of the Insurance Division's file on the party, would automatically become part of the contested case record for purposes of proving a prima facie case if the party 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 reviewed the designated portion of the Insurance Division's investigation file on the party and found that it proves a prima facie case.

Therefore, the 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 Information

Rutherford has been licensed in Oregon as a nonresident insurance agent since 1/11/02. Rutherford's current license number is 174490. Rutherford's last recorded residence address is located in Phoenix, Arizona.

Enforcement Action by Other State Insurance Regulator

Rutherford is subject to enforcement action pursuant to ORS 744.074(1)(i) in two instances because of the following circumstances.

1. On 7/10/02, the insurance regulator for the State of Idaho issued an order, number 2149, revoking Rutherford's temporary Idaho nonresident insurance agent license effective immediately, and refusing to issue a permanent license to Rutherford. Rutherford did not request a hearing. The insurance regulator took the action because Rutherford failed to disclose on his Idaho nonresident insurance agent license application dated 12/11/01 unspecified criminal charges and failed to respond to an inquiry by the insurance regulator about the criminal charges.

2. On 9/13/02, the insurance regulator for the State of Washington issued an order, number D 02-144, revoking Rutherford's Washington nonresident insurance agent license effective 10/3/02 if Rutherford did not request a hearing. Rutherford did not request a hearing. The insurance regulator took the action because Rutherford failed to respond to an inquiry by the insurance regulator.

Failed to Report Enforcement Action by Other State Insurance Regulator

Rutherford violated ORS 744.089(1) in two instances by engaging in the following conduct. ORS 744.089(1) requires a person licensed in Oregon as an insurance agent to notify the Insurance Division of any administrative action taken against the person, and provide a copy of the order, within 30 days of the final disposition of the action.

1. On 7/10/02, the insurance regulator for the State of Idaho issued an order taking administrative action against Rutherford as described above. Rutherford was required to notify the Insurance Division of the action, and provide a copy of the order, by 8/30/02. Rutherford has not notified the Insurance Division of the action or provided a copy of the order.

2. On 9/13/02, the insurance regulator for the State of Washington issued an order taking administrative action against Rutherford as described above. Rutherford was required to notify the Insurance Division of the action, and provide

a copy of the order, by 10/13/02. Rutherford has not notified the Insurance Division of the action or provided a copy of the order.

Failed to Respond to Director

Rutherford violated ORS 731.296 in one instance by engaging in the following conduct. On 10/30/02, the Insurance Division mailed by certified mail a letter to Rutherford at his last recorded business address. The letter requested Rutherford to provide certain information to the Insurance Division by 11/24/02. On 11/4/02, a person at Rutherford's last recorded business address received the letter.

The Insurance Division has not received any response from Rutherford.

Failure to Notify Department of Address Change

Rutherford violated ORS 744.068(4)(a) in one instance by engaging in the following conduct. ORS 744.068(4)(a) requires a person licensed in Oregon as a nonresident insurance agent to notify the Insurance Division within 30 days that the person changed the person's business address. On or about 12/3/02, Rutherford changed his business address at 7360 S Kyrene Road T200, Tempe, AZ 85283-8432 to an unknown address. Rutherford has not notified the Insurance Division of the change.

Order

Pursuant to ORS 744.074(1), the Oregon license as an insurance agent issued to Rutherford is revoked on the date of this order.

Notice of Right to Judicial Review

The party has the right to appeal the order to the Oregon Court of Appeals pursuant to ORS 183.480 and 183.482. If a party wants to appeal the order, the party must file a petition for judicial review with the Court of Appeals within 60 days from the date this 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 for judicial review within the 60-day time period, then the party will lose the right to appeal this 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 February 2, 2004

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

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