

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

In the Matter of **Antonino A. Topacio.**) **FINAL ORDER**
) Case No. INS 03-11-018

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 Antonino A. Topacio (Topacio).

On 1/23/04, 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

Topacio has been licensed in Oregon as a nonresident insurance agent since 3/19/96. Topacio's current license number is 130891. Topacio's last recorded residence street address is located in Lynwood, Washington. Topacio's last recorded business street address is Dickison Insurance Agency, Inc., located in Edmonds, Washington.

Agent Not Licensed in Resident State

Topacio is subject to enforcement action pursuant to ORS 744.063(1)(a) in one instance because of the following circumstances. ORS 744.063(1)(a) requires a person licensed in Oregon as a nonresident insurance agent to also be licensed and in good standing in the person's state of residence as a resident insurance producer. Topacio is a resident of Washington. Topacio's Washington resident insurance agent license expired on 6/12/02. On 6/18/02, the insurance regulator for the State of Washington issued an order, number D 02-95, refusing to issue, renew or reinstate Topacio's former Washington resident insurance agent license. The insurance regulator took the action because Topacio failed to respond to an inquiry by the insurance regulator, misappropriated insurance premiums, and issued false certificates of insurance. Topacio did not request a hearing. Therefore, Topacio has not qualified for an Oregon nonresident insurance agent license since at least 6/12/02.

Enforcement Action by Other State Insurance Regulator

Topacio is subject to enforcement action pursuant to ORS 744.074(1)(i) in one instance because of the following circumstances. ORS 744.074(1)(i) permits the director to take any authorized enforcement action against a person licensed in Oregon as an insurance agent if another state insurance regulator cancels, revokes, suspends, refuses to issue or refuses to renew the person's license in that state as an insurance agent, adjuster or consultant. On 6/18/02, the insurance regulator for the State of Washington issued an order, number D 02-95, refusing to issue, renew or reinstate Topacio's former Washington resident insurance agent license as described above.

Failed to Report Enforcement Action by Other State Insurance Regulator

Topacio violated ORS 744.089(1) in one instance 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 enforcement action taken against the person, and provide a copy of the order, within 30 days of the final disposition of the action. On 6/18/02, the insurance regulator for the State of Washington issued an

order, number D 02-95, refusing to issue, renew or reinstate Topacio's former Washington resident insurance agent license as described above. The action was finally disposed of on 9/16/02. Thus, Topacio was required to notify the Insurance Division of the action, and provide a copy of the order, by 10/16/02. Topacio has not notified the Insurance Division of the action or provided a copy of the order

Order

Pursuant to ORS 744.074(1), the Oregon license as an insurance agent issued to Topacio 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 March 24, 2004

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

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