

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

In the Matter of **Jon O. Clark**) **FINAL ORDER**
) Case No. INS 04-02-015

History of the Proceeding

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 Jon O. Clark (Clark).

On 7/21/04, the director issued to the party a notice of proposed action, pursuant to ORS 183.415. The notice informed the party that they were entitled to a hearing.

The director did not receive a request for a hearing and did not hold a hearing because the director determined that the record of the proceeding proved a *prima facie* case and no further evidence was needed.

Therefore, the director now makes the following final decision in this proceeding.

Findings of Fact and Conclusions of Law

Licensing Information

Clark has been licensed in Oregon as a nonresident insurance agent since 4/13/01.

Made False Statement on Insurance License Application

Clark violated ORS 744.013(2)(b) (1999) in one instance by engaging in the following conduct. ORS 744.013(2)(b) (1999) permits the director to revoke, suspend, refuse to issue or renew, an Oregon insurance agent license applied for by or issued to a person if the person makes any false statement on or relative to an application for the license. On 4/6/01, the Insurance Division received from Clark an Oregon nonresident insurance agent license application dated 3/14/01. On the application, Clark answered "No" to question 16 which asked "Have you ever been indicted for, or convicted of, any misdemeanor or felony?" Clark's answer was false because on 10/10/00 Clark was convicted, based on a plea of guilty, by the Superior Court of San Diego County, State of California, in criminal case number M805716,

of the two crimes of driving without a valid California drivers' license, pursuant to Section 12500(a) of the California Vehicle Code; and of reckless driving – DUI reduction, pursuant to Section 23103.5(a) of the California Vehicle Code, both misdemeanors.

Agent Not Licensed in Resident State

Clark 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. At all relevant times, Clark was a resident of California. On 7/18/03, the insurance regulator for the State of California issued an order, number LBB 1246-AP (AR), revoking Clark's California resident insurance agent license effective on 8/18/03. The insurance regulator took the action because Clark was convicted of committing the following three crimes. On 10/10/00, Clark was convicted of the two crimes described above. Also, on 2/13/03, Clark was convicted, based on a plea of guilty, by the Superior Court of San Diego County, State of California, in criminal case number CD171209, of the crime of driving under the influence of alcohol causing injury with a prior DUI within seven years, pursuant to Section 23153(a) of the California Vehicle Code, a felony. Therefore, Clark has not qualified for an Oregon nonresident insurance agent license since 8/18/03.

Failed to Report Enforcement Action by Other State Insurance Regulator

Clark 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 by another state insurance regulator, and provide a copy of the order, within 30 days of the final disposition of the action. On 7/18/03, the insurance regulator for the State of California issued an order, number LBB 1246-AP (AR), revoking Clark's California resident insurance agent license effective on 8/18/03 as described above. The action was finally disposed of on 8/18/03. Thus, Clark was required to notify the Insurance Division of the action, and provide a copy of the order, by

9/17/03. Clark has not notified the Insurance Division of the action or provided a copy of the order.

Failed to Report Criminal Action

Clark violated ORS 744.089(2) in one instance by engaging in the following conduct. ORS 744.089(2) requires a person licensed in Oregon as an insurance agent to notify the Insurance Division of any criminal prosecution of the person; and provide a copy of the initial complaint, order resulting from the hearing and any other relevant legal documents, within 30 days of the pretrial hearing. On 2/13/03, Clark was convicted, based on a plea of guilty, by the Superior Court of San Diego County, State of California, in criminal case number CD171209, of the crime of driving under the influence of alcohol causing injury with a prior DUI within seven years, pursuant to Section 23153(a) of the California Vehicle Code, a felony, as described above. Thus, Clark was required to notify the Insurance Division of the criminal action, and provide a copy of the specified documents, by at least by 3/17/03. Clark has not notified the Insurance Division of the action or provided a copy of the specified documents.

Order

Pursuant to ORS 744.074(1), Clark's Oregon nonresident 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 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.

Dated September 20, 2004

/s/ Joel Ario
Joel Ario
Administrator
Insurance Division
Department of Consumer and Business Services

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