

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

In the Matter of **Alfred Gomez**) **FINAL ORDER**
) Case No. INS 04-03-017

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 Alfred Gomez (Gomez).

On 7/22/04, 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

Gomez has been licensed in Oregon as a nonresident insurance agent from 3/11/02 to 3/31/04. On 3/31/04, Gomez' license expired because he did not renew it.

Made False Statement on Insurance License Application

Gomez violated ORS 744.074(1)(a) by engaging in the following conduct. On 3/7/02, the Insurance Division received from Gomez an application dated 1/11/02 for a license in Oregon as a nonresident insurance agent. On the application, Gomez answered "Yes" to question 13 which asked "Are you currently under indictment for, or have you been convicted of, any misdemeanor or felony?" In section 14 on the application, Gomez explained that "In 1989 I was arrested for being under the influence of a control substance and served 6 months. All my obligation that were given to me by the court were met." However, Gomez did not disclose any other

criminal convictions. Gomez' answer was false because he had been convicted on seven occasions of committing nine crimes, all relating to illegal drugs.

a. On 9/13/88, Gomez was convicted, based on a plea of guilty, by the Municipal Court, County of Los Angeles, Rio Hondo Judicial District, State of California, in criminal case number 88W03763, of the crime of being under the influence of a controlled substance, pursuant to Section 11550 of the California Health and Safety Code, a misdemeanor.

b. On 12/19/88, Gomez was convicted, based on a plea of guilty, by the Municipal Court, County of Los Angeles, Rio Hondo Judicial District, State of California, in criminal case number 87M03646, of the crime of being under the influence of a controlled substance, pursuant to Section 11550 of the California Health and Safety Code, a misdemeanor.

c. On 7/19/89, Gomez was convicted, based on a plea of no contest, by the Municipal Court, County of Los Angeles, Rio Hondo Judicial District, State of California, in criminal case number 89M02506, of the crime of possession of a controlled substance, pursuant to Section 11377(a) of the California Health and Safety Code, a misdemeanor.

d. On 1/10/90, Gomez was convicted, based on a plea of not guilty, by the Superior Court, County of Los Angeles, State of California, in criminal case number GA000432, of the crime of possession of a controlled substance, pursuant to Section 11350(a) of the California Health and Safety Code, a felony.

e. On 1/26/90, Gomez was convicted, based on a plea of guilty, by the Municipal Court, County of Los Angeles, Rio Hondo Judicial District, State of California, in criminal case number 89M06793, of the crime of possession of a controlled substance, pursuant to Section 11377(a) of the California Health and Safety Code; and of the crime of being under the influence of a controlled substance, pursuant to Section 11550 of the California Health and Safety Code, both misdemeanors. This may have been the conviction that Gomez partially disclosed on his Oregon license application.

f. On 1/26/90, Gomez was convicted, based on a plea of guilty, by the Municipal Court, County of Los Angeles, Rio Hondo Judicial District, State of California, in criminal case number 89M09622, of the crime of possession of a controlled substance, pursuant to Section 11377(a) of the California Health and Safety Code; and of the crime of being under the influence of a controlled substance, pursuant to Section 11550 of the California Health and Safety Code, both misdemeanors.

g. On 10/11/01, Gomez was convicted, based on a plea of guilty, by the Municipal Court, County of Los Angeles, Alhambra Judicial District, State of California, in criminal case number 1AL02284, of the crime of being under the influence of a controlled substance, pursuant to Section 11550 of the California Health and Safety Code, a misdemeanor; and was placed on deferred entry of judgement for a period of twenty-four (24) months. On 4/11/03, the court set aside the plea and dismissed the proceeds pursuant to Section 1000.3 of the California Penal Code.

Agent Not Licensed in Resident State

Gomez 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 be also licensed in the person's state of residence as a resident insurance producer. At all relevant times, Gomez was a resident of California. On 9/16/03, the Insurance regulator for the State of California issued an order, number LBB 0684-AP(AR), revoking Gomez' California resident insurance agent license effective on 10/16/03. The insurance regulator took the action because Gomez disclosed on his California resident insurance agent license application, which was received by the insurance regulator on or about 1/2/01, that he had been convicted only once and only for one crime, but failed to disclose any of the other convictions as described above. Therefore, Gomez has not qualified for an Oregon nonresident insurance agent license since 10/16/03.

Failed to Report Enforcement Action by Other State Insurance Regulator

Gomez 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 administrative action taken against the person, and provide a copy of the order, within 30 days of the final disposition of the action. On 9/16/03, the Insurance regulator for the State of California issued an order, number LBB 0684-AP(AR), revoking Gomez' California resident insurance agent license effective on 10/16/03 as described above. The action was finally disposed on 10/16/03. Thus, Gomez was required to notify the Insurance Division of the action, and provide a copy of the order by 11/17/03. Gomez has not notified the Insurance Division of the action or provided a copy of the order.

Order

Pursuant to ORS 744.074(1)(a) and 744.011, Gomez' expired 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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