

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

In the Matter of **Grant H. Gilbertson.**) **FINAL ORDER**
) Case No. INS 04-03-031

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 Grant H. Gilbertson (Gilbertson).

On 4/7/04, the director issued to the party a notice of proposed action, pursuant to ORS 183.415 and Oregon Administrative Rules (OAR) 137-003-0505. The notice informed the party, *inter alia*, that they were entitled to 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 of the investigation of 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 any request for a hearing.

The director reviewed the record of this proceeding to date, and found that it proved a *prima facie* case.

Findings of Fact and Conclusions of Law

Licensing

Gilbertson was licensed in Oregon as a resident insurance agent from 7/31/90 to 10/13/03. On 10/14/03, the director issued an order, Case Number INS 02-04-013, revoking Gilbertson's license, and assessing Gilbertson a civil penalty of \$5,000. Subsequently, Gilbertson appealed the action. The appeal is pending. Gilbertson's license number was 113065. Gilbertson's last recorded residence and business address is located in Salem, Oregon.

Transacted Insurance in Oregon Without a License

Gilbertson violated ORS 744.053 by engaging in the following conduct. At all relevant times, Gilbertson was not licensed in Oregon as an insurance agent.

ORS 744.053 prohibits a person from selling, soliciting, or negotiating insurance in Oregon without being licensed in Oregon as an insurance agent. From 10/15/03 to 2/18/04, Gilbertson sold, solicited, and negotiated 41 auto insurance applications from Oregon consumers through the Oregon Assigned Risk Plan (OARP) when he was not authorized to do so. OARP assigned the applications to various insurers to issue the policies applied for. The application date, postmark date of the envelope that OARP received from Gilbertson with the completed application and premium, insured, policy number, and insurer that the OARP assigned the application to, relative to each instance is as follows:

<u>Application Date</u>	<u>Postmark</u>	<u>Insured</u>	<u>Policy No.</u>	<u>Insurer</u>
Unknown	10/15/03	Retherford, Shawne	AR2623	Amex Assurance Co.
Unknown	10/16/03	Laporte, Debra	0491804D1537	State Farm Mutual Auto Ins Co
Unknown	10/16/03	Gonzalez, Domingo	0492225D1537	State Farm Mutual Auto Ins Co
Unknown	10/28/03	Arnold, Richard	RWH031781	AIU Ins Co
Unknown	10/29/03	Briseno, Francisco	0495778D3037	State Farm Mutual Auto Ins Co
10/9/03	10/31/03	Blakley, Kathi	8A630515	SAFECO Ins Co of America
Unknown	11/03/03	Harbula, John	RWH031906	AIU Ins Co
Unknown	11/03/03	Prevett, Melissa	0495779E0437	State Farm Mutual Auto Ins Co
Unknown	11/05/03	Cruikshank, Amanda	RWH031922	AIU Ins Co
Unknown	11/05/03	Sanchez, Antonio	AP233295	Oregon Mutual Ins Co
Unknown	11/11/03	Pagala, Peter	CQ6879618	Country Casualty Ins Co
10/11/03	11/13/03	Cardenas, Manuel	500724E1937	State Farm Mutual Auto Ins Co
Unknown	11/24/03	Pineda, Delfino	AR2646	Amex Assurance Co
Unknown	12/01/03	Quest, Margaret	0503020F0237	State Farm Mutual Auto Ins Co
Unknown	12/03/03	Crocker, Rob	6957745	National Continental Ins Co
Unknown	12/08/03	Fisher, Fred	0504835F0937	State Farm Mutual Auto Ins Co
Unknown	12/09/03	Malone, Ron	RWH032631	AIU Ins Co
10/12/03	12/23/03	Duran, Reyna	8A630583	SAFECO Ins Co of America
Unknown	12/31/03	Rudel, Manuel	0320424A0137	State Farm Mutual Auto Ins Co
Unknown	01/03/04	Gilbertson, Judith	RWH033050	AIU Ins Co
Unknown	01/05/04	Prevett, Melissa	0402914A0637	State Farm Mutual Auto Ins Co
9/6/03	01/05/04	Barnes, Mark Etal	8A630622	SAFECO Ins Co of America
Unknown	01/08/04	Bedolla, Sam	RWH033100	AIU Ins Co
Unknown	01/09/04	Cherry, Debra	0402931A1337	State Farm Mutual Auto Ins Co
Unknown	01/12/04	Richards, Rolfe	RWH033308	AIU Ins Co
Unknown	01/13/04	Lemus, Juan	RWH033316	AIU Ins Co
Unknown	01/15/04	Johnson, Randy	NFA500528	Clarendon National Ins Co
Unknown	01/16/04	Vazquez, Manuel	0507022A1737	State Farm Mutual Auto Ins Co
10/3/03	01/21/04	Medina, Alvaro	8A630653	SAFECO Ins Co of America
Unknown	01/22/04	Brannam, Phyllis	RWH033514	AIU Ins Co
Unknown	01/22/04	Ellingsworth, Randy	0507021A2137	State Farm Mutual Auto Ins Co
Unknown	01/22/04	Esplin, Don	0508753A2337	State Farm Mutual Auto Ins Co
Unknown	01/24/04	Perez, Araceli	AP233654	Oregon Mutual Ins Co
Unknown	01/26/04	Harbula, John	RWH033621	AIU Ins Co
Unknown	01/26/04	Moreno, Juan	RWH033639	AIU Ins Co
9/29/03	01/26/04	Resendiz, Reyna	8A630656	SAFECO Ins Co of America
Unknown	01/28/04	Bradley, John	RWH033506	AIU Ins Co

Unknown	01/30/04	Silva, Antonio	AP233729	Oregon Mutual Ins Co
10/4/03	02/02/04	Cardenas, Manuel	510753B0337	State Farm Mutual Auto Ins Co
10/12/03	02/02/04	Sosa, Cesar Servin	8A630688	SAFECO Ins Co of America
Unknown	02/18/04	Luke, Dave	NFA500578	Clarendon National Ins Co

Order

Pursuant to ORS 731.988, Gilbertson is assessed a civil penalty of \$41,000. The payment shall be made in the form of a check payable to the "Department of Consumer and Business Services" for the full amount due. The payment shall be delivered to the Insurance Division at the Labor and Industries Building, 350 Winter Street NE, Room 440 (4th Floor), Salem, Oregon; or mailed to the Insurance Division at PO Box 14480, Salem, OR 97309-0405. Pursuant to ORS 183.090(2), the payment is due on, and shall be received by the Insurance Division by, the 71st calendar day after the date of this order, unless the party timely appeals the 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 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 26, 2004

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