

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

In the Matter of **Michael C. Close**) **FINAL ORDER**
) Case No. INS 04-04-012

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 Michael C. Close (Close).

On 8/27/04, the director notified the party that they were entitled to a hearing pursuant to ORS 183.415.

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

Close has been licensed in Oregon as a resident insurance agent from 2/6/91 to 2/28/96 and since 12/4/98.

Withheld Insurance Application and Premium

Close violated ORS 744.074(1)(d) in two instances by engaging in the following conduct. ORS 744.074(1)(d) prohibits a person licensed in Oregon as an insurance agent from improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business. From 1/1/99 to 8/28/03, Close was appointed by Country Mutual Insurance Company (Country Mutual). At all relevant times, Close was required to send to Country Mutual completed applications and premiums within 10 working days of receipt.

1. On 11/25/02, Close completed and received from Jim Shelby (Shelby) of La Pine, Oregon an application for property insurance to be provided by for Country

Mutual. The property to be insured was a dwelling owned by Shelby and located at 1581 Lisa Court, Prineville, Oregon. Previously, on or about 10/30/02, Close had received from First American Title Insurance Company (First American) a check, number 42095, dated 10/30/02, in the amount of \$187.45, and made payable to Country Mutual. The check was payment of the premium for the insurance applied for. Close was required to send the application and premium to Country Mutual by 12/9/02. On 5/2/03, Country Mutual received from Close the application and check. Country Mutual issued to Shelby a policy, number A36K4378876. Thus, Close withheld from Country Mutual the application and premium from 12/10/02 to 5/2/03, a period of 143 days.

2. On, 11/25/02, Close completed and received from Shelby an another application for property insurance to be provided by for Country Mutual. The property to be insured was a dwelling owned by Shelby and located at 19093 Riverwoods Drive, Bend, Oregon. On 11/25/02, Close received from Shelby a personal check, number 484, dated 11/25/02, in the amount of \$150.00, and made payable to Country Mutual. The check was payment of the premium for the insurance applied for. Close was required to send the application and premium to Country Mutual by 12/9/02. On 5/2/03, Country Mutual received from Close the application and check. Country Mutual issued to Shelby a policy, number A36K4378877. Thus, Close withheld from Country Mutual the application and premium from 12/10/02 to 5/2/03, a period of 143 days.

Order

Pursuant to ORS 731.988, Close is assessed a civil penalty of \$2,000. 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 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 October 5, 2004

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

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