

by failing to timely submit insurance premiums to insurers; and ORS 744.013(2)(g) (1999) by accepting premium from a person for insurance that Gilbertson knew had been cancelled due to his negligence, misrepresenting to the person that the cancelled insurance was still effective, and misrepresenting to an insurer that the person had applied for insurance to be provided by the insurer. Subsequently, Gilbertson appealed that action, and the appeal is pending. However, Gilbertson's license remains revoked. On 5/26/04, the director issued another order, case number INS 04-03-031, assessing Gilbertson a civil penalty of \$41,000 for violating ORS 744.053 by, from 10/15/03 to 2/18/04, soliciting and receiving from Oregon consumers 41 automobile insurance applications for insurance to be provided by insurers as assigned by the Western Association of Automobile Insurance Plans, which administers Oregon's Assigned Risk Plan (OARP). Gilbertson did not request a hearing or appeal that action. Thus, Gilbertson has not been licensed in Oregon as an insurance agent since 10/13/03, and has been assessed a significant civil penalty for subsequently transacting insurance without a license to do so. Notwithstanding these enforcement actions against Gilbertson, Gilbertson has continued to transact insurance in Oregon without being licensed to do so. As recently as 6/5/04, Gilbertson received from Manuel Cisneros-Arredondo (Cisneros-Arredondo) of Salem, Oregon \$100 in cash as payment of the monthly premium for automobile insurance. Cisneros-Arredondo had been paying Gilbertson for the insurance since January 2003. Gilbertson had even given Cisneros-Arredondo a document entitled "Policy Information." The document represented that the insurer providing the insurance was Western Association Insurance Company, the policy number was OR 3214500, and the policy was effective from 10/14/03 to 4/14/04. However, there is no insurance company licensed in Oregon by the name of Western Association Insurance Company. Furthermore, the Western Association of Automobile Insurance Plans has not received any application or premium from Gilbertson on behalf of Cisneros-Arredondo and thus had not assigned any application to an insurer to issue a policy to Cisneros-Arredondo.

Order

Pursuant to ORS 731.252, Gilbertson shall immediately cease and desist from violating the above provision(s) of the Oregon Insurance Code.

Notice of Right to a Hearing and Judicial Review

Right to a Hearing

The party has the right to a hearing pursuant to ORS 731.252. A party may request a hearing by sending a written request to the Insurance Division. A party may send the request 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. The Insurance Division must *receive* the request within *20 days* from the date this notice was *sent* to the party.

If the Insurance Division receives from or on behalf of a party a written request for a hearing by the due date described above, then the Insurance Division will refer the request to the Office of Administrative Hearings (OAH). OAH will schedule the hearing and notify the party of the date and location of the hearing and other related information. OAH will conduct the hearing in accordance with the Oregon Administrative Procedures Act, ORS Chapter 183; and related rules, Oregon Administrative Rules (OAR) 137-05-0501 *et seq.* A party that is an individual may represent him or her self, or may be represented by an attorney licensed in Oregon, at a hearing. Subsequently, OAH will issued a proposed order, and the director will issue a final order. However, this order will remain in effect if and until a final order is issued terminating this order.

If the Insurance Division does not receive from or on behalf of a party a written request for a hearing by the due date, then this order will become final automatically pursuant to ORS 731.252 and no further order will be issued.

If the Insurance Division receives from or on behalf of a party a written request for a hearing by the due date described above but the party withdraws the request, notifies the Insurance Division or OAH that the party will not appear at a hearing,

or does not appear at a scheduled hearing, then the director will issue a final order by default pursuant to ORS 731.252, 183.415(6) and OAR 137-003-670(3).

If this order becomes final automatically or the director issues a final order by default, then the record of this proceeding to date, including the designated portion of the Insurance Division's file on the party, automatically become part of the contested case record. The party may request the Oregon Court of Appeals to review this order pursuant to ORS 183.480 and 183.482 by filing a written petition for judicial review with the court within 60 calendar days after the date this order became final.

Dated September 7, 2004

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

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