

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

In the Matter of **Louis G. Scrivens**) **FINAL ORDER**
) Case No. INS 03-10-034

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 Louis G. Scrivens (Scrivens).

On March 22, 2004, the director issued a notice of proposed action pursuant to ORS 183.415 notifying the party that the director proposed to take enforcement action against the party and that they were entitled to a hearing.

On April 12, 2004, the director timely received from the party a written request for a hearing.

On April 15, 2004, the director referred the party's request for a hearing to the Office of Administrative Hearings (OAH).

On May 5, 2004, OAH scheduled a hearing to be held on August 31, 2004.

On July 30, 2004, the director issued an amended notice of proposed action.

On September 3, 2004, OAH rescheduled the hearing to be held on December 6, 2004.

On December 6, 2004, OAH held a hearing. The hearing was conducted by Alison Greene Webster, an administrative law judge of OAH. The director, by and through the Insurance Division, appeared and was represented at the hearing by Kyle J. Martin, an Assistant Attorney General. The Insurance Division called Craig Carter, Greg Pierce, Kasey Chase, Robert Fusco and Gary Holliday as its witnesses. The Insurance Division offered Exhibits A1 through A26 as its documentary evidence. All of the Insurance Division's exhibits were admitted into the record. The party appeared and represented himself. The party testified on his own behalf.

The party offered Exhibits R1 and R2 as its documentary evidence. All of the party's exhibits were admitted into the record.

On December 17, 2004, OAH issued a proposed order pursuant to ORS 183.460 and OAR 137-003-0645. The proposed order found that the party committed all of the alleged violations and recommended that the director take the proposed action. The proposed order informed the party that he could file with the director written exceptions to the proposed order within 30 days after the proposed order was sent to the party, pursuant to OAR 137-003-0650. On the same date, OAH mailed a copy of the proposed order to the party.

The director did not receive from the party any exceptions to the proposed order. Therefore, the director now makes the following final decision in this proceeding.

Findings of Fact, Conclusions of Law and Opinion

The director adopts, and incorporates herein by this reference, the findings of fact, conclusions of law, and opinion of proposed order as the facts, conclusions, and reasoning of this final order except as follows.

On page 6, the statement "and the propriety of the sanction" is deleted to make it clear that the director does not have the burden of proving the propriety of the sanction when the enforcement actions that the director proposes to take in a particular case is within the range of actions authorized by law. ¹

All references to Wendy "Hendron" are corrected to "Herndon." See Exhibit A25 page 4 line 19.

Order

Pursuant to ORS 731.988, Scrivens 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

¹ See *In re Karen M. Thatcher*, Case No. INS 02-04-015, Final Order, page 9 footnote 5.

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 be entitled to have the final order reviewed by the Oregon Court of Appeals pursuant to ORS 183.480 and 183.482. A party may institute a proceeding for judicial review by filing with the court a petition for judicial review 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 files a petition, the party is requested to also send a copy of the petition to the Insurance Division.

Dated March 2, 2005

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

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