

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

In the Matter of **Leland S. Hill**) **FINAL ORDER**
) Case No. INS 04-03-011

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 Leland S. Hill (Hill).

On March 16, 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 March 24, 2004, the director timely received from the party a written request for a hearing.

On March 26, 2004, the director referred the party's request for a hearing to the Office of Administrative Hearings (OAH).

On April 14, 2004, OAH scheduled a hearing to be held on July 20, 2004.

On July 7, 2004, OAH rescheduled the hearing to be held on September 30, 2004.

On September 30, 2004, OAH held a hearing. The hearing was conducted by Ella D. Johnson, an administrative law judge of OAH. The director, by and through the Insurance Division, appeared and was represented at the hearing by Kathleen Dahlin, an Assistant Attorney General. The Insurance Division called Donald McCall¹, Tisha Smith, and Samantha Ripley as its witnesses. The Insurance Division offered Exhibits A1 through A19 as its documentary evidence. All of the Insurance Division's exhibits were admitted into the record. The party appeared

¹ The proposed order incorrectly stated that the Insurance Division called Jody McCall as one of its witnesses. As pointed out in the party's third exception and confirmed in the Insurance Division's response, the Insurance Division did not call Jody McCall, although it did call Donald McCall, Jody's husband, as one of its witnesses.

and represented himself. The party testified on his own behalf. The party offered Exhibits R1 through R23 as its documentary evidence. All of the party's exhibits were admitted into the record.

On November 10, 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 action proposed in the notice of 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.

On December 13, 2004, the director untimely received from the party written exceptions to the proposed order.

On January 13, 2005, the director received from Insurance Division a written response to the party's exceptions. A copy of the Insurance Division's response was mailed to the party. The director did not receive any response from the party.

The director considered the party's exceptions, although untimely, and the Insurance Division's response.

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 3, 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. ²

² See *In re Karen M. Thatcher*, Case No. INS 02-04-015, Final Order, page 9 footnote 5.

Order

Pursuant to ORS 744.074(1), Hill's Oregon resident individual insurance producer 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 March 2, 2005

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

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