

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

In the Matter of **Deborah A. Pelikan**) **FINAL ORDER**
) Case No. INS 04-10-011

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 Deborah A. Pelikan (Pelikan)

On November 9, 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 November 16, 2004, the director timely received from the party a written request for a hearing.

On November 17, 2004, the director referred the party's request for a hearing to the Office of Administrative Hearings (OAH).

On December 2, 2004, the director filed a motion for a ruling on the legal issues in the case in favor of the director pursuant to OAR 137-003-0580.

On December 3, 2004, OAH scheduled a hearing to be held of January 27, 2005.

On December 7, 2004, the party responded to the motion by requesting the hearing be rescheduled to sometime in April or May 2005 when the party believed she would be released from incarceration.

On December 10, 2004, the director objected to the party's request to reschedule the hearing; and requested OAH to deny the party's request, grant the director's motion, and issue a proposed order.

On December 10, 2004, the party requested the hearing be rescheduled to sometime in May or June 2005.

On December 20, 2004, the director objected to the party's request to reschedule the hearing, and requested OAH to grant the director's motion.

On December 27, 2004, OAH issued a proposed order. Regarding the director's motion, the proposed order granted the motion. Regarding the party's request to reschedule the hearing, the proposed order essentially denied the party's request because the party's request was "moot" because the ruling on the director's motion resolved all issues in the contested case thereby making a hearing unnecessary. 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 she 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 January 7, 2005, the director requested OAH to indefinitely postpone the hearing scheduled for January 27, 2005 because the hearing date coincided with the earliest date on which the director could issue a final order, and in anticipation that the director would issue a final order.

On January 11, 2005, OAH granted the director's request to indefinitely postpone the hearing. Consequently, no hearing was held in this case.

The director did not receive from the party any exceptions to the proposed order.

On January 27, 2005, the party attempted to surrender her license. However, her license had expired on November 30, 2004 so there was no license to surrender.

Therefore, the director now makes the following final decision in this proceeding.

Findings of Fact and Conclusions of Law

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.

Order

Pursuant to ORS 744.074(1), 731.428(4), and 744.011, Pelikan's Oregon expired insurance producer's license is revoked on the date of this 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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