

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

In the Matter of **Damien J. Smith**

) **FINAL ORDER**
) Case No. INS 06-04-005

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 Damien J. Smith (Smith).

On 4/18/06, the director issued a notice of proposed action notifying the party that the director proposed to take enforcement action against the party and that the party was entitled to a hearing, pursuant to ORS 183.415.

The director did not receive a request for a hearing. The director 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.

The director now makes the following final decision in this proceeding.

Findings of Fact and Conclusions of Law

Licensing Information

Smith has been licensed in Oregon as a nonresident individual insurance producer since 9/26/04. Smith's last recorded residence address is located in Moreno Valley, California.

Enforcement Action by Other State Insurance Regulator

Smith is subject to enforcement action pursuant to ORS 744.074(1)(i) because of the following circumstances. ORS 744.074(1)(i) permits the director to take any authorized enforcement action against a person when another state insurance regulator cancels, revokes, suspends, or refuses to renew, the person's license in that state as an insurance producer, adjuster or consultant. On 8/25/05, the insurance regulator for the State of California issued an order, number LBB 2818-AP (AR) revoking Smith's California resident insurance producer license as of

9/24/05. The insurance regulator took the action because Smith was convicted of the following three crimes. On 12/16/04, in case number RIM453721, Smith was convicted, based on a plea of guilty, by the Superior Court of Riverside County, State of California, of the crime of spousal battery pursuant to California Penal Code §243(e)(1), a misdemeanor. Also on 12/16/04, in case number RIF115529, Smith was convicted, based on a plea of guilty, by the Superior Court of Riverside County, State of California, of the crime of assault with a deadly weapon other than a firearm, to wit an automobile, and by means of force likely to produce great bodily injury pursuant to California Penal Code §245(a)(1), a felony. On 12/17/04, in case number AN1206729 M A, Smith was convicted, based on a plea of guilty, by the Superior Court of Orange County, State of California, of the crime of being an unlicensed driver pursuant to California Vehicle Code §12500(a), a misdemeanor.

Order

Pursuant to ORS 744.074(1), Smith's Oregon nonresident individual insurance producer license is revoked on the date of this order.

Notice of Right to Judicial Review

A party has the right to appeal this final order to 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 May 17, 2006

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