

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

In the Matter of **Kenneth D. Sloan**) **FINAL ORDER**
) Case No. INS 08-02-003

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 Kenneth D. Sloan (Sloan).

On 2/27/08, the director issued a notice of proposed action notifying the party that the director proposed to take enforcement action against the party and the party was entitled to a hearing pursuant to ORS 183.415. The notice of proposed action included a statement that if a hearing was not conducted then the designated portion of the Insurance Division's file in this case would automatically become part of the contested case record for the purpose of proving a *prima facie* case.

The director did not receive from the party a request for a hearing and did not conduct a hearing.

The director finds that the designated portion of the Insurance Division's file in this case contains evidence that persuades the director of the existence of facts necessary to support this order, and no further testimony or evidence is necessary to prove a *prima facie* case, pursuant to OAR 137-003-0670(1)(c) and (3).

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

Findings of Fact and Conclusions of Law

Licensing Information

Sloan has been licensed in Oregon as a nonresident individual insurance producer since 4/13/05. Sloan's license number is 613322 and National Association of Insurance Commissioners (NAIC) national producer number is 6260300. Sloan's last recorded residence and business addresses are located in Boise, Idaho.

Enforcement Action by Other State Insurance Regulator

Sloan 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 who has applied for a license or is licensed in Oregon as an insurance producer if another state insurance regulator canceled, revoked, suspended, or refused to renew, the person's license in that state as an insurance producer, adjuster or consultant. On 2/8/07, the insurance regulator for the State of Idaho issued a preliminary order, number 18-2333-06, suspending Sloan's Idaho resident insurance producer license, and assessing Sloan a civil penalty of \$4,250. The order became final on 3/16/07. The insurance regulator took the action because the insurance regulator found that Sloan violated at least the following five laws. First, Sloan acquired without permission on or about 3/11/05 and retained until seized from him pursuant to a search warrant on 4/11/06, a proprietary customer list of Bankers Life & Casualty Company (BLCC), in violation of Idaho Code §41-1016(1)(d). Second, Sloan falsely accused and misrepresented to the insurance regulator during an investigation that another person provided the customer list to Sloan, in violation of Idaho Code §41-1016(1)(h). Third, Sloan misled others to believe that Sloan represented the Senior Health Insurance Benefits Advisors (SHIBA) of the Idaho Department of Insurance, in violation of Idaho Code §41-1015(1)(h). Fourth, Sloan misrepresented on Sloan's Idaho insurance producer license application dated 5/11/04 that he had not been convicted of a crime when he had been convicted of the crime of grand theft of a bovine in California on or about 9/20/78, in violation of Idaho Code §41-1016(1)(a). Fifth, Sloan failed to report to the insurance regulator that Sloan had been prosecuted for the crime of driving under the influence of intoxicants (DUII) in either July 2004 or April 2005, in violation of Idaho Code §41-1021(b).

Failed to Report Enforcement Action by Other State Insurance Regulator

Sloan is subject to enforcement action pursuant to ORS 744.089(1) because of the following circumstances. ORS 744.074(1)(b) permits the director to take any authorized enforcement action against a person who has applied for a license or is

licensed in Oregon as an insurance producer if the person violated any insurance statute; or any rule, order, or subpoena, of the director or the insurance regulator of another state. An insurance statute, ORS 744.089(1), requires a person who is licensed in Oregon as an insurance producer to notify the director of any administrative action taken against the person by another state insurance regulator and provide a copy of the order within 30 days of the final disposition of the action. As referred to above, the Idaho insurance regulator issued a preliminary order dated 2/8/07 suspending Sloan's Idaho resident insurance producer license and assessing Sloan a civil penalty. The order became final on 3/16/07. Thus, Sloan was required to notify the director of the action and provide a copy of the order by 4/16/07. Sloan has not notified the director of the action or provided a copy of the order.

Used a Fraudulent, Coercive, or Dishonest Practice

Sloan is subject to enforcement action pursuant to ORS 744.074(1)(h) because of the following circumstances. ORS 744.074(1)(h) permits the director to take any authorized enforcement action against a person who has applied for a license or is licensed in Oregon as an insurance producer if the person used a fraudulent, coercive, or dishonest practice, or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Oregon or elsewhere. Sloan used a dishonest practice in the conduct of business in Idaho by engaging in the following four acts, which are more particularly described in the Idaho insurance regulator's preliminary order dated 2/8/07 which became final on 3/16/07. First, Sloan acquired and retained, without permission, a proprietary customer list of BLCC. Second, Sloan falsely accused and misrepresented to the Idaho insurance regulator during an investigation that another person provided the customer list to Sloan. Third, Sloan mislead others to believe that Sloan represented the SHIBA of the Idaho Department of Insurance. Fourth, Sloan misrepresented on his Idaho insurance producer license application dated 5/11/04 that he had not been convicted of a crime when he had been convicted of the crime of grand theft of a bovine in California on or about 9/20/78.

Failed to Notify Director of Change of Business Address

Sloan is subject to enforcement action pursuant to ORS 744.068(4)(a) because of the following circumstances. ORS 744.068(4)(a) requires a person licensed in Oregon as an insurance producer to notify the director of any change of address or telephone number of any location at which the person transacts insurance business within 30 days of such change. On 10/14/06, Sloan discontinued working as an insurance producer at New York Life Insurance Company, 1109 W Myrtle Street Suite 300, Boise, ID 83702-6980. Sloan has not notified the director of this change.

Order

Pursuant to ORS 744.074(1) Sloan'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 judicial review of this order pursuant to ORS 183.480 and ORS 183.482. A party may request judicial review by sending a petition for judicial review to the Oregon Court of Appeals. The court must receive the petition 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 date the party received the order. If the order was mailed to a party, then the date of service is the date the order was mailed to the party, not the date 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 24, 2008

/s/ Scott J. Kipper
Scott J. Kipper
Administrator
Insurance Division
Department of Consumer and Business Services

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