

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

In the Matter of **Mike Padilla**) **FINAL ORDER**
) Case No. INS 08-12-014

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 Mike Padilla (Padilla).

On 1/22/09, 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 record of this proceeding to date, including information in the designated portion of the Insurance Division's file and all materials submitted by the party if any, proves a *prima facie* case.

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

Findings of Fact and Conclusions of Law

Licensing Information

Padilla was licensed in Oregon as a nonresident insurance producer from 11/9/06 to 12/31/08. On 12/31/08, Padilla's license expired.¹ Padilla's last recorded residence and business address is located in San Antonio, Texas.

¹ ORS 744.011 permits the director to investigate and take enforcement action against a person who was licensed in Oregon as an insurance producer but is no longer licensed because the license expired or was surrendered.

Convicted of Felony Involving Dishonesty or Breach of Trust

Padilla is subject to enforcement action pursuant to ORS 731.428(4) because of the following circumstances. ORS 731.428(4) requires the director to revoke, suspend, or refuse to renew, the Oregon insurance producer license issued to a person who was convicted of, among other things, a felony involving dishonesty or a breach of trust. OAR 836-071-0321(1) defines a felony involving dishonesty as “includ[ing] but not limited to any offense constituting or involving theft, burglary, perjury, bribery, forgery, counterfeiting, a false or misleading oral or written statement, deception, fraud, a scheme or artifice to deceive or defraud, a material misrepresentation or the failure to disclose material facts. On or about 9/22/04, Padilla was convicted, based on a plea of *nolo contendere*, by the 226th District Court of Bexar County, Texas, in the criminal case *State of Texas vs. Mike Padilla*, case number 2004CR2369, of committing the crime of forgery of a check, a felony, pursuant to Texas Penal Code §32.21(d). According to an indictment dated on or about 3/30/04, Padilla committed the crime by, on or about 7/2/03, intentionally and knowingly, and with the intent to defraud and harm another, possess a check, number 8276, dated 7/1/03, made payable to “Mike Padilla,” in the amount of \$7,119.06, purportedly issued by Total Care Home Health, that had been made, altered, executed, completed and authenticated so that it purported to be the act of Julius Hubbard, who did not authorize the act, and Padilla possessed the check with the intent to pass the check and with the knowledge that the check was forged.

Provided Incorrect, Misleading, Incomplete or Materially Untrue Information on Insurance License Application

Padilla is subject to enforcement action pursuant to ORS 744.074(1)(a) because of the following circumstances. ORS 744.074(1)(a) 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 provided to the director incorrect, misleading, incomplete or materially untrue information on an Oregon insurance producer license application. On or about 11/9/06, the Insurance Division received from Padilla an application for an Oregon nonresident insurance producer

license. Padilla answered “No” to question 1 which asked “Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?” Padilla’s answer was incorrect because on or about 9/22/04, Padilla was convicted, based on a plea of *nolo contendere*, by the 226th District Court of Bexar County, Texas, in the criminal case *State of Texas vs. Mike Padilla*, case number 2004CR2369, of committing the crime of forgery of a check, a felony, pursuant to Texas Penal Code §32.21(d).

Administrative Action by Other State Insurance Regulator

Padilla 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 4/25/07, the insurance regulator for the State of Washington issued an order, number D 07-147, revoking Padilla’s Washington nonresident insurance producer license effective 5/15/07, because Padilla violated Revised Code of Washington (R.C.W.) §48.17.475 by failing to respond to three inquiries from the regulator.

On 9/11/07, the insurance regulator for the State of Connecticut issued an order, number MC 07-86, revoking Padilla’s Connecticut nonresident insurance producer license because he violated Connecticut General Statutes (C.G.S.) §38a-702k and 38a-769 by failing to disclose on Padilla’s Connecticut license application dated on or about 10/25/06, a criminal conviction of Padilla, and violated C.G.S. §38a-16 and 38a-769 by failing to respond to an inquiry from the regulator.

On 2/14/08, the insurance regulator for the State of Virginia issued an order, number INS-2008-00027, revoking Padilla’s Virginia nonresident insurance producer license because he violated Code of Virginia (C.V.) §38.2-1826C by failing to timely notify the regulator of an administrative action by another state insurance regulator against Padilla.

On 8/1/08, the insurance regulator for the State of Ohio issued an order, unnumbered, revoking Padilla's Ohio nonresident insurance producer license because Padilla violated Ohio Revised Code (O.R.C.) §3905.14(B)(6) by having been convicted of a crime, and O.R.C §3905.14(B)(10) by having Padilla's insurance producer license in another state revoked.

On 9/17/08, the insurance regulator for the State of Utah issued an order, docket number 2008-098-LC and enforcement case number 2141, revoking Padilla's Utah nonresident insurance producer license because Padilla violated Utah Code Annotated (U.C.A.) §31A-23a-105(2)(b)(i)(A) by failing to timely notify the regulator of an administrative action by another state insurance regulator against Padilla.

Failed to Report Administrative Action by Other State Insurance Regulator

Padilla 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 administrative 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. ORS 744.089(1), an insurance statute, 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.

On 4/25/07, the insurance regulator for the State of Washington issued an order, number D 07-147, revoking Padilla's Washington nonresident insurance producer license effective 5/15/07 if Padilla did not request a hearing by 7/24/07. Padilla did not request a hearing. The action was finally disposed of on 8/23/07, pursuant to R.C.W. §34.05.542(2). Padilla was required to notify the director of the action and provide a copy of the order by 9/24/07. Padilla has not notified the director of the action or provided a copy of the order.

On 9/11/07, the insurance regulator for the State of Connecticut issued an order, number MC 07-86, revoking Padilla's Connecticut nonresident insurance producer license. The action was finally disposed of on 10/26/07, pursuant to C.G.S.

§4.183(c)(1). Padilla was required to notify the director of the action and provide a copy of the order by 11/26/07. Padilla has not notified the director of the action or provided a copy of the order.

On 2/14/08, the insurance regulator for the State of Virginia issued an order, number INS-2008-00027, revoking Padilla's Virginia nonresident insurance producer license. The action was finally disposed of on 3/17/08, pursuant to C.V. §2.2-4026 and Virginia Supreme Court Rules §5:21(c). Padilla was required to notify the director of the action and provide a copy of the order by 4/16/08. Padilla has not notified the director of the action or provided a copy of the order.

On 8/1/08, the insurance regulator for the State of Ohio issued an order, unnumbered, revoking Padilla's Ohio nonresident insurance producer license. The action was finally disposed of on 8/17/08, pursuant to O.R.C. §119.12. Padilla was required to notify the director of the action and provide a copy of the order by 9/16/08. Padilla has not notified the director of the action or provided a copy of the order.

On 9/17/08, the insurance regulator for the State of Utah issued an order, docket number 2008-098-LC and enforcement case number 2141, revoking Padilla's Utah nonresident insurance producer license. The action was finally disposed of on 10/17/08, pursuant to U.C.A. §63G-4-401(3)(a). Padilla was required to notify the director of the action and provide a copy of the order by 11/17/08. Padilla has not notified the director of the action or provided a copy of the order.

Order

Pursuant to ORS 744.074(1), Padilla's expired Oregon nonresident 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 4, 2009

/s/ Teresa D. Miller
Teresa D. Miller
Acting Administrator
Insurance Division
Department of Consumer and Business Services

//
//
//