

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

In the Matter of **Nicolasa Mohs**) **FINAL ORDER**
) Case No. INS 09-07-026

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 Nicolasa Mohs (Mohs).

On 8/11/09, 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 183.415.¹

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

Mohs was licensed in Oregon as a resident insurance producer from 1/27/06 to 12/31/08. On 12/31/08, Mohs' license expired. Mohs' last recorded residence and business address was located in Salem, Oregon.

Failed to Report Administrative Action by Other State Agency

Mohs 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

¹ The notice 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.

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 7/7/06, the State of Oregon Government Standards and Practices Commission (GSPC) issued an order, number 05-169EDC, assessing Mohs a civil penalty of \$7,000 pursuant to ORS 244.350 and a forfeiture of \$20,000 pursuant to ORS 244.360 for a total of \$27,000. GSPC took the action because Mohs violated ORS 244.040(1)(a) or ORS 244.120(1)(c) or both by, while acting as a manager of the migrant education program of the Willamette Education Service District (WESD), (1) from 5/26/04 to 7/14/04, approving hiring five relatives to work for WESD without notifying WESD that she had a potential conflict of interest in hiring the relatives, (2) from 7/1/04 to 7/23/04 approving paying her husband \$850.00 for hosting visiting teachers from Mexico as part of the migrant education program without notifying WESD that she had a potential conflict of interest in paying her husband, and (3) from 5/3/04 to 4/4/05, submitting seven requests for reimbursement of expenses she incurred for alcoholic beverages. The action was finally disposed of on 7/7/06. Mohs was required to notify the director of the action and provide a copy of the order by 8/7/06. Mohs has not notified the director of the action or provided a copy of the order.

On 5/21/07, the State of Oregon Teacher Standards and Practices Commission (TSPC) issued an order, unnumbered, suspending Mohs' standard administrative license for 30 days from 5/18/07 to 6/16/07. TSPC took the action because Mohs' violated (1) OAR 584-020-0010(5) by failing to use professional judgment, (2) OAR 584-020-0020(3)(d) by failing to use proper skill in supervision, (3) OAR 584-020-0030(3) by failing to demonstrate proper communication skills, and (4) OAR 584-020-0035(3)(a)-(b) by failing to exemplify personal integrity and honesty, and by engaging in the acts described in the preceding paragraph. The action was

finally disposed of on 5/21/07. Mohs was required to notify the director of the action and provide a copy of the order by 6/20/07. Mohs has not notified the director of the action or provided a copy of the order.

Made False or Fraudulent Statement on or Relative to an Insurance Application and Forged Person's Name on Application for Insurance or Related Document

Mohs is subject to enforcement action pursuant to ORS 746.100 and ORS 744.074(1)(k) because of the following circumstances. ORS 746.100 prohibits a person from making false or fraudulent statements or representations on or relative to an application for insurance or for the purpose of obtaining a fee, commission, money or benefit from an insurer or insurance producer. ORS 744.074(1)(k) 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 forged another person's name to an application for insurance or to any document related to an insurance transaction. Mohs made a fraudulent representation to Combined Insurance Company of America (Combined) on or relative to an application for insurance. On or about 5/16/08, Mohs submitted or caused to be submitted to Combined an application dated 5/3/08 for life insurance for Espedito Canales Diaz (E. Diaz), Mohs' father. Mohs knew that E. Diaz did not apply, or authorize any other person to apply, for the insurance. Mohs also knew that Maria J. Diaz (M. Diaz), Mohs' mother and E. Diaz' wife, forged E. Diaz' name on the application. Mohs also forged the name of another insurance producer on the application. On 5/6/08, E. Diaz died in Arizona. Subsequently, M. Diaz filed a claim for benefits under the life insurance policy applied for, Combined investigated the claim, and M. Diaz withdrew the claim.

Made False Statement to the Director

Mohs is subject to enforcement action pursuant to ORS 731.260 because of the following circumstances. ORS 731.260 prohibits a person from filing or causing to be filed with the director any article, certificate, report, statement, application or any other information required or permitted to be so filed under the Insurance Code and known to such person to be false or misleading in any material respect. On

3/24/09, during an investigative interview of Mohs by the Insurance Division on behalf of the director, Mohs presented a “Manager Product Production Summary” dated 5/3/08 representing that Mohs submitted the application described above to Combined on or about 5/3/08. This representation was false and Mohs knew that it was false because Mohs submitted the application to Combined on or about 5/16/08.

Order

Pursuant to ORS 744.074(1), Mohs’ expired Oregon resident insurance producer license is revoked on the date of this order.²

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 9/28/09

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

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² 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.