

On 2/10/10, the director referred Mahyari's request for a hearing to the Office of Administrative Hearings (OAH).

On 5/11/10, OAH scheduled a hearing to be conducted on 8/11/10, and mailed to Mahyari a written notice informing him of the date, time and place of the hearing.

On 6/17/10, the director filed with OAH a motion for summary determination dated 6/16/10 pursuant to Oregon Administrative Rules (OAR) 137-003-0580. The motion argued that the director was entitled to revoke Mahyari's license for misconduct as a matter of law because Mahyari had admitted to all of the misconduct alleged in the notice of proposed action. Mahyari did not respond to the motion.

On 8/2/10, OAH issued a ruling on the motion and a proposed order.

The ruling on the motion granted the motion and, because it resolved all issues, canceled the scheduled hearing.

The proposed order found that Mahyari committed all of the violations alleged, and recommended that the director take the action proposed, in the notice of proposed action. The proposed order informed Mahyari that he could file with the director written exceptions to the proposed order within 30 days after the proposed order was sent to Mahyari.

Mahyari did not respond to the ruling or proposed order.

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

Findings of Fact

The director adopts the following findings of fact stated on pages 2-3 of the proposed order dated 8/2/10, except as noted herein.⁶

1. Respondent [referring to Mahyari] was a licensed insurance producer from September 17, 2007 until September 30, 2009, at which time his license expired. Respondent has not sought to renew the producer license.

2. Respondent was hired as a reserve agent for the Farmers Insurance Group (Farmers) on a one year contract. He tendered his resignation to Farmers on

⁶ The director modifies the findings to conform more closely to the cited evidence in the record.

March 14, 2008, and his appointment with Farmers was terminated as of April 15, 2008.

3. Respondent developed business through some contacts he had in the auto sales industry. While appointed by Farmers, He respondent would provide solicit and sell insurance to new vehicle purchasers through the car lots, and was authorized to accept premiums from those customers. He was required to follow all of Farmers' procedures for handling premiums, including depositing the premiums in the client trust account.

4. Between April 8, 2008 and June 21, 2008, knowing that he had resigned as an agent of Farmers and (for all instances after April 15) that his appointment had ended, Respondent represented to insurance consumers that he was an agent of Farmers ~~and~~ by issuing at least 54 ~~policies for~~ certificates of auto insurance ~~with purportedly provided by~~ Farmers. Respondent issued ~~All but one occurred of the certificates~~ after ~~the~~ his appointment had been terminated by Farmers.

Respondent was never appointed to be an agency producer, just a reserve agent.

5. Respondent was aware of Farmers' policies about payment of premium. All premiums were to be sent to Farmers, and all transactions needed 1.5 month's worth of premium to be in force. Respondent did not collect the entire premium from the consumers. The premiums were short by more than \$100,000. After he was no longer appointed and was still doing business, on at least two occasions he ~~often~~ deposited the premiums into his own personal account.

6. For the business Respondent wrote after his Farmers appointment ended, he made up quotes for payment, failed to underwrite the risk, and printed out fake certificates of insurance for the consumers.

Conclusions of Law

Mahyari violated ORS 744.078(1)(a), ORS 744.074(1)(h), ORS 744.083(1), and ORS 744.074(1)(d).

Order

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

Notice of Right to Judicial Review

The party has the right to judicial review of this order pursuant to ORS 183.480 and ORS 183.482. The 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 by delivering it to the Labor and Industries Building, 350 Winter Street NE Room 300, Salem, Oregon 97301-3880; or mailing it to PO Box 14480, Salem, OR 97309-0405; or faxing it to 503-378-4351; or e-mailing it to mitchel.d.curzon@state.or.us.

Dated September 8, 2010

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

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