

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

In the Matter of **Brenda G. Burum**

) **FINAL ORDER**
) Case No. INS 10-02-002

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 Brenda G. Burum (Burum).

On 2/3/10, the director issued a notice of proposed action informing the party that the director proposed to take enforcement action against the party, the party was entitled to a hearing pursuant to ORS 183.415 and ORS 183.435, and if the party wanted a hearing then the party had to send to the director a written request for a hearing so that the director received it by 4/5/10. The notice also informed the party that if a hearing was not conducted then the designated portion of the Insurance Division's file and all materials submitted by the party 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 proves a *prima facie* case.

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

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, 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

Burum was licensed in Oregon as a resident individual insurance producer from 11/4/03 to 4/15/08. On 4/14/08 Burum's license was revoked. Burum's last recorded residence and business address was located in Roseburg, Oregon.

Administrative Action by Other State Insurance Regulator

Burum is subject to enforcement action pursuant to ORS 744.074(1)(i).

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, including the director as the insurance regulator for the State of Oregon, canceled, revoked, suspended, or refused to renew, the person's license in that state as an insurance producer, adjuster or consultant.

On or about 6/30/06, in the criminal case *United States of America v. Brenda Gay Hartman*, case number CR 05-60103-1-AA, in the United States District Court for the District of Oregon, Eugene Division, Burum pleaded guilty to committing the crime of bankruptcy fraud, pursuant to Title 18 USC §157. Burum was required to notify the director of the criminal action, and provide a copy of the specified documents, at least by 7/31/06. Burum did not voluntarily notify or provide any documents to the director. On 10/22/07, the director called Burum and requested she provide copies of all documents she possessed related to the criminal case. On 10/25/07, the director received from Burum a letter dated 10/22/07 informing the director about the action and providing a copy of only a criminal judgment dated 11/15/06. Burum did not provide to the director a copy of a criminal indictment dated 9/22/05.

On 11/14/06, Burum was convicted, based on her plea of guilty, of the crime of bankruptcy fraud, a felony, as described above. Burum committed the crime by engaging in the following conduct. In June 2000, while living in Klamath Falls, Oregon, Burum filed a voluntary petition for bankruptcy in United States Bankruptcy Court in Eugene, Oregon. Burum signed the petition, *under oath*, attesting that she listed all of her true assets and expenses in the petition and attached schedules. When she filed the bankruptcy petition, Burum intentionally omitted assets she owned, controlled or disposed of, including a 1992 Ford Truck. Burum also under reported her monthly income, and falsely listed expenses including a monthly mortgage obligation and expenses for a residence which she did not actually own. She also failed to disclose a loan and payments made on that loan. On 7/28/00, Burum testified, *under oath*, at a bankruptcy creditor's meeting that the information in her bankruptcy petition and schedules was true, accurate and complete. This testimony was false and perjurious.

In September 2000, the United States Bankruptcy Court granted Burum's petition for bankruptcy and discharged \$72,000 in debt. After receiving information that Burum had falsified information in her bankruptcy petition and schedules, the bankruptcy trustee reopened the matter. In April 2002, Burum testified, *under oath*, in a deposition conducted by the U.S. Bankruptcy Trustee, and during which made additional false statements and producing fabricated documents, including Oregon Division of Motor Vehicles (DMV) title documents which showed she had sold a vehicle.

On 4/14/08, in the administrative case *In the Matter of Brenda G. Hartman*, case number INS 07-11-008, the director issued a final order revoking Burum's Oregon resident individual insurance producer license pursuant to ORS 731.428 and ORS 744.074(1). The director took the action because the director found that Burum was subject to enforcement action pursuant to ORS 744.089(2) and ORS 731.428(4) by engaging in the conduct described above.

Convicted of Felony Involving Dishonesty or Breach of Trust

Burum is not entitled to written consent, and is subject to enforcement action, pursuant to ORS 731.428(3) because of the following circumstances. ORS 731.428(3) requires the director to refuse to issue an Oregon insurance producer license to a person who was convicted of, among other things, a felony involving dishonesty or a breach of trust, unless the person applies for and the director gives written consent for the person to engage or participate in the business of insurance in Oregon. ORS 731.428(2) requires the director to adopt rules establishing the procedures and standards to be used when a person applies for consent and the director decides whether to give consent. OAR 836-071-0321 *et seq.* establishes the procedures and standards. 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." OAR 836-071-0328 requires the director to consider at least seven factors in deciding whether to give consent.

On 11/14/06, Burum was convicted of the crime of bankruptcy fraud, is a felony, as described above.

On 4/14/08, the director revoked Burum's Oregon resident individual insurance producer license, as described above.

On 12/22/09, the director received from Burum an application dated 12/18/09 for consent to engage or participate in the business of insurance in Oregon, and an application dated 12/18/09 for a new Oregon resident individual insurance producer license.

On 1/8/10, the director reviewed the application, considered the factors listed in OAR 836-071-0336, and found the following: (1) The director has a legitimate interest in protecting persons in Oregon from incompetent and dishonest acts by insurance producers, *e.g.* ORS 731.008, ORS 731.256, ORS 731.288, and ORS 744.074, and pursued such interest by revoking Burum's previous Oregon insurance producer license as described above. (2) Burum did not make any materially false or misleading statement or omission in the process of applying for the pending insurance producer license or consent. (3) Burum committed the crime of bankruptcy fraud by making during her voluntary bankruptcy proceeding at least seven fraudulent statements on three separate occasions from June 2000 to April 2002. The nature and seriousness of Burum's criminal conduct demonstrates that Burum is capable of lying repeatedly for personal benefit until others discover her deceit and it is no longer in her interest to continue lying. (4) Burum was not charged with, indicted, or convicted of multiple offenses. (5) The director received little if any evidence that Burum has been rehabilitated. Burum was initially sentenced to three years probation but her probation was terminated after about one year because "[s]he has complied with the rules and regulations of probation and is no longer in need of supervision." The director received from Burum with her application for consent letters of recommendation for Burum from six persons. One person did not disclose how they knew Burum. Two persons said they had worked with Burum. The director finds these persons' recommendations of marginal value because they did not by persons who supervised Burum. One person said they were proposing to hire Burum to perform "general secretary duties and funeral before need insurance sales" and said that "[w]e ... feel that [Burum's offenses] do not relate to her employment." The director finds this person's recommendation of no value because the person did not supervise Burum and

did not explain how Burum's criminal misconduct of fraud does "not relate" to Burum selling insurance to pay for funeral expenses. Two of the persons said they knew Burum for four and five years and apparently employed Burum. The first of these two persons described Burum as "very reliable, responsible, and honest hard working person." The second of these two persons described Burum as "talented, honest, caring, thorough, and a very responsible person" and "we trust [Burum] with the keys to our home, our office, our cars, and our ranches." The director finds these persons' recommendations of marginal value because they merely asserted that, but did not explain why, they believed Burum was honest. The director did not receive any information about Burum receiving any post-conviction treatment or schooling. (6) The director timely notified all members of the National Association of Insurance Commissioners, and received seven responses. Six of the responses did not provide any relevant information about Burum's fitness to be an insurance producer. One of the responses, from Washington, indicated that the state cancelled Burum's Washington nonresident insurance producer license as a result of the director revoking Burum's Oregon resident insurance producer license. (7) Issuing a license to Burum would be inconsistent with the public interest, and with federal law, *e.g.* 18 USC §1033, and state law, *e.g.* ORS 744.074, requiring, that insurance producers be trustworthy in the business of insurance at all times, not only when it is convenient or in their best interest.

Based on the above findings, the director is not persuaded that Burum would not engage in the same or similar misconduct again if presented with the same or similar circumstances. Therefore, the director concludes that Burum is not entitled to consent to engage or participate in the business of insurance in Oregon; and, consequently, is not entitled to be issued an Oregon insurance producer license.

Order

The director refuses to give consent to Burum to engage or participate in the business of insurance in Oregon pursuant to ORS 731.428, and refuses to issue to Burum an Oregon resident individual insurance producer license pursuant to ORS 731.428(3) and ORS 744.074(1).

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 by delivering or mailing it to the Insurance Division at 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 April 8, 2010

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

//
//
//