

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

In the Matter of **Mark J. Emter** ) **FINAL ORDER**  
 ) Case No. INS 10-05-015

**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 Mark J. Emter (Emter).

On 6/8/10, 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 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 6/29/10. 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.

**Findings of Fact and Conclusions of Law**

Licensing Information

Emter has been licensed in Oregon as a nonresident individual insurance producer from 7/28/05 to 7/31/07 under license number 204237, and since 6/11/08 under license number 215741. Emter was not licensed in Oregon before 7/28/05 or from 8/1/07 to 6/10/08. Emter's NAIC national producer number is 690875. Emter's last recorded *residence* address is 220 Tangen Road, Woodland, WA 98674; and *residence* telephone number is 360-910-2093. Emter's last recorded *business*

address is 705 SE Chkalov Drive Suite D, Vancouver, WA 98683-5235; and *business* telephone number is 360-574-1717. Emter's last recorded e-mail address is [mjemter@gmail.com](mailto:mjemter@gmail.com). However, Emter is believed to have moved to and be receiving mail at PO Box 1597, Kalispell, MT 59903-1597; and his telephone number is 406-890-3293.

#### Failed to Respond to Director's Inquiry

Emter is subject to enforcement action pursuant to ORS 731.296 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. ORS 731.296 requires a person who is licensed in Oregon in any capacity under the Insurance Code to promptly and truthfully respond to an inquiry from the director.

On 10/8/09, the Insurance Division received from the insurance regulator for the State of Washington a letter dated 10/6/09 stating in part:

I am attaching a copy of my August 19, 2009 letter and the information provided by Gary Romo of Allianz, as it concerns Mr. Emters's [sic] sale of non-approved annuities to Washington consumers. You will also find that Mr. Emter was also involved in the sale of an insurance product to an Oregon consumer, where they allege he misrepresented the contract and also misrepresented the location of sale, alleging the sale took place at their home in Oregon, not Washington.

The regulator's letter enclosed a letter dated 8/18/09 from Allianz Life Insurance Company of North America (Allianz Life) stating in part:

This letter is in response to your August 12, 2009 request for documents to support our termination for cause, and suspected fraud referral, of Mark Emter's Allianz appointment. Our investigation was initiated in response to two Washington life insurance policies issued to Oregon residents. These two Oregon residents (spouses) filed a complaint alleging, among other things, their applications were solicited, signed, and delivered in Oregon, and not in Washington as represented during policy issuance.

Allianz Life's letter enclosed, *inter alia*, (1) a faxed letter dated 4/17/09 from David Renner, 3390 SW Underwood Drive, Portland, OR 97225, one of the Oregon residents who purchased a policy from Emter, stating in part:

In 2005 I was advised by your agent to take a cash out mortgage loan on my residence through his mortgage company and place the cash into a GenDex SP life insurance policy with assurances that this policy would provide me up to a 12.5% return to park my savings until I needed it to fund a real estate investment. Several years have gone by and I find that my agent's representations were not fulfilled. In addition, the policy provisions were not fully explained to me. In short, I believe this sale was unsuitable and the policy was misrepresented to me. I also was sold this product in Oregon and believe now that the policy was not approved in my state. It appears that an amendment was prepared to hide this fact."

On 12/4/09, the Insurance Division mailed by certified mail a letter dated 12/4/09 to Emter at his last recorded residence mailing address of 220 Tangen Road, Woodland, WA 98674. The letter requested Emter to provide to the Insurance Division by 12/23/09 certain information about Allianz' letter, as well as voluntarily come to the Insurance Division's office in Salem, Oregon on 12/29/09 to be interviewed about Allianz' letter. On 1/8/10, the Insurance Division received its letter dated 12/4/09 marked "Return to Sender – Not Deliverable As Addressed – Unable to Forward."

On 12/29/09, the Insurance Division mailed by certified mail a follow up letter dated 12/29/09 to Emter at his last recorded business address of 705 SE Chkalov Drive Suite D, Vancouver, WA 98683-5235. The letter extended the due date to respond to 1/14/10 and rescheduled the interview to be held on 1/27/10. On 1/7/10, the Insurance Division received its letter dated 12/19/09 marked "Forward Time Exp[ired – Return] to Send[er]." The US Postal Service label on the envelope indicated that Emter's business address had changed to 4610 NE 77<sup>th</sup> Avenue Suite 104, Vancouver, WA 98662-6790.

On 1/7/10, the Insurance Division mailed by certified mail another follow up letter dated 1/7/10 to Emter at 4610 NE 77<sup>th</sup> Avenue Suite 104, Vancouver, WA

98662-6790. The letter extended the due date to respond to 1/29/10 and rescheduled the interview to be held on 2/4/10. The US Postal Service attempted to deliver the letter to Emter by leaving a notice on 1/13/10 and again on 1/24/10. On 1/28/10, when Emter did not claim the letter, the US Postal Service returned the letter to the director. On 2/1/10, the Insurance Division received its letter dated 1/7/10 marked unclaimed.

On 2/8/10, the Insurance Division mailed by first class mail another follow up letter dated 2/8/10 to Emter at his last recorded residence mailing address of 220 Tangen Road, Woodland, WA 98674. The letter extended the due date to respond to 2/18/10 and rescheduled the interview to be held on 2/23/10. On 2/16/10, the Insurance Division received its letter dated 2/8/10 marked "Return to Sender – No Mail Receptacle – Unable to Forward."

On 2/18/10, the Insurance Division received from the Washington regulator an e-mail indicating that Emter had just notified the regulator that Emter had changed his mailing address to PO Box 1597, Kalispell, MT 59903-1597.

On 2/19/10, the Insurance Division mailed by certified mail another follow up letter dated 2/19/10 to Emter at PO Box 1597, Kalispell, MT 59903-1597. The letter extended the due date to respond to 3/17/10 and rescheduled the interview to be held on 3/24/10. On 2/22/10, Emter received the Insurance Division's letter dated 2/19/10.

On 3/24/10, Emter called and left a voice mail message for the Insurance Division.

On 3/24/10 @ 9:35 AM (PST), the Insurance Division sent an e-mail to Emter at [mjemter@gmail.com](mailto:mjemter@gmail.com) stating:

I received your message today regarding an extension for you to appear here at the Division for an investigative interview. Thank you for responding. What is a good day and time for you to appear here at the Division? In addition, I will also need you to respond to the questions in my letter dated February 19, 2010. Please provide your responses so that I may receive them no later than 5:00 pm on April 23, 2010.

On 5/3/10 @ 1:17 PM (PST), when Emter did not respond to the Insurance Division's e-mail on 3/24/10, the Insurance Division sent an e-mail to Emter at [mjemter@gmail.com](mailto:mjemter@gmail.com) stating:

On March 24, 2010, I received your request for an extension to appear at the Oregon Insurance Division for an investigative interview, recorded and under oath. I granted your request under the condition you provide me with a date and time to appear. You have not responded with a date and time. In addition, I requested you to respond to a series of questions in a letter dated February 19, 2010 by April 23, 2010. To date, I have not received your response. You are currently in violation of Oregon Revised Statute 731.296, Director's Inquiry. Please be advised you are now scheduled to appear here at the Division for an investigative interview on May 26th, 2010, at 1:30 pm. Please refer to the letter dated February 19th for location information and materials you may want to bring with you. If you have questions, please feel free to contact me at the phone number listed below.

On 5/14/10 @ 9:33 AM (PST), Emter sent an e-mail to the Insurance Division stating "I am going to need more time ...I am considering looking into getting representation....I am living in Montana too. [/s/] Mark J. Emter, Acceptance Capital, PO Box 1597, Kalispell, Mt, 59903, 406-890-3293." (Ellipses in original).

On 5/14/10 @ 11:12 AM (PST), the Insurance Division sent an e-mail to Emter at [mjemter@gmail.com](mailto:mjemter@gmail.com) stating:

I am not inclined to grant yet another extension for you to appear at the Division for an interview based on the following facts: This is my fifth notification to you for your appearance here at the Division, the first letter dated December 4, 2009, you did not respond in writing to the letter I sent you dated February 19th and you failed to provide a date and time for you to appear that would accommodate your schedule and resident state situation. At this point, you are still scheduled to appear at the Division on May 26th. Should you choose not to appear, please be advised you may be faced with enforcement action against your producer license in Oregon. You are continuing to be in violation of ORS 731.296, Director's Inquiry, for failure to respond in writing to my previous letters asking for a written response to questions contained therein.

Emter did not appear for the interview scheduled to be held on 5/26/10.

The Insurance Division has not received from Emter the information initially requested in the Insurance Division's letter dated 12/4/09, and repeatedly requested in the Insurance Division's letters dated 12/29/09, 1/7/10, 2/8/10, and 2/19/10, and last requested in the Insurance Division's e-mail dated 3/24/10.

**Order**

Pursuant to ORS 744.074(1), Emter'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 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](mailto:mitchel.d.curzon@state.or.us).

Dated July 1, 2010

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

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