

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

In the Matter of **Vincent J. Kleszcz**) **FINAL ORDER**
) Case No. INS 11-03-005

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 Vincent J. Kleszcz (Kleszcz).

On 3/23/11, 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 4/13/11. 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

Kleszcz has been licensed in Oregon as a nonresident individual insurance producer from 8/5/08 to 3/31/11. Kleszcz's license expired on 3/31/11. Kleszcz's license number is 736410, and NAIC national producer number is 8953221. Kleszcz's last recorded residence address is 1531 South Highway 121 Apartment 1121, Lewisville, TX 75067-5928; and residence telephone number is 817-903-1968.

Kleszcz's last recorded business street address is Equal Health, 600 Six Flags Drive Suite 624, Arlington, TX 76011-6384; business mailing address is 1531 South Highway 121 Apartment 1121, Lewisville, TX 75067-5928; and business telephone number is 817-635-5000; business fax number is 817-635-5006; and business e-mail address is vkleszcz@equalhealth.com

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

Kleszcz 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 8/5/08, the Insurance Division received from Kleszcz an Oregon nonresident insurance producer license application dated 8/4/08. On the application, Kleszcz answered "No" to question 2 which asked "Have you or any business in which you are or were an owner, partner, officer or director, or member or manager of [a] limited liability company, ever been involved in an administrative proceeding regarding any professional or occupational license, or registration?" Kleszcz's answer was incorrect because Kleszcz had been involved in the following two administrative proceedings.

On 9/7/07, the insurance regulator for the State of Kansas issued an order, number 3710-SO, assessing Kleszcz a civil penalty of \$1,000 because Kleszcz violated Kansas Statutes Annotated §40-214 by allowing another person, who was not licensed in Kansas as an insurance producer, to solicit insurance business on behalf of Kleszcz. The Kansas order became final on 9/28/07.

On 4/22/08, the insurance regulator for the State of Delaware issued an order, DE DOI number 46489 & docket number 693, suspending Kleszcz's Delaware nonresident insurance producer license for one year and assessing Kleszcz a civil penalty of \$200 because Kleszcz violated 18 Delaware Code §1719(a)(A) by failing to

timely notify the regulator of an administrative action taken by another state insurance regulator against Kleszcz.

Failed to Report Administrative Action by Other State Insurance Regulator

Kleszcz 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) requires a person who is licensed in Oregon as an insurance producer to notify the director of any administrative action taken by another state insurance regulator against the person and provide a copy of the order within 30 days of the final disposition of the action. Kleszcz failed to timely notify the director of the following two administrative actions taken against Kleszcz.

On 10/8/08, the insurance regulator for the State of Wisconsin issued an order, number 08-C31694, refusing to issue for 31 days until 11/8/08 a nonresident insurance producer license to Kleszcz because Kleszcz violated Wisconsin Administrative Code §6.59(5)(b), (c), & (d)(1) by failing to disclose on Kleszcz's application for a Wisconsin nonresident insurance producer license the administrative actions taken by Kansas and Delaware against Kleszcz referred to above. The action was finally disposed of on 11/24/08 pursuant to Wisconsin Statutes §§601.63(3m) and 808.04(1). Kleszcz was required to notify the director of the action and provide a copy of the order by 12/24/08. On 6/11/09, 170 days late, the director received from Kleszcz a letter dated 6/1/09 notifying the director of the action and providing a copy of the order.

On 3/4/09, the insurance regulator for the State of South Dakota issued an order, unnumbered, assessing Kleszcz a civil penalty of \$250 because Kleszcz violated South Dakota Codified Laws §58-33-66(1) by failing to timely respond to an inquiry from the regulator, and South Dakota Codified Laws §58-30-193 by failing to timely notify the regulator of the administrative action by Wisconsin against Kleszcz referred to above. The action was finally disposed of on 3/4/09. Kleszcz was

required to notify the director of the action and provide a copy of the order by 4/3/09. On 6/11/09, 70 days late, the director received from Kleszcz a letter dated 6/1/09 notifying the director of the action and providing a copy of the order.

Failed to Respond to Director's Inquiry

Kleszcz 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 6/21/10, the Insurance Division mailed by certified mail a letter to Kleszcz at his last recorded residence of 1531 South Highway 121 Apartment 1121, Lewisville, TX 75067-5928; and last recorded business street address of Equal Health, 600 Six Flags Drive Suite 624, Arlington, TX 76011-6384. The letter requested Kleszcz to provide certain information to the Insurance Division by 7/12/10. On 6/25/10, a person purporting to be Amy Huy signed and received for the letter mailed to Kleszcz's business address. On 7/12/08, the Insurance Division received by return mail the letter mailed to Kleszcz's residence address. The envelope was marked "return to sender – unclaimed – unable to forward." The Insurance Division has not received any response from Kleszcz.

Order

Pursuant to ORS 744.074(1), Kleszcz's expired Oregon resident 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.

Dated April 18, 2011

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

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