

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

In the Matter of **Alvin Black** and) **FINAL ORDER**
Columbia Evergreen Marketing, Inc.) Case No. INS 12-01-002

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 Alvin L. Black (Black) and Columbia Evergreen Marketing, Inc. dba Columbia Evergreen Insurance Marketing, Inc. (Columbia Evergreen).

On 2/15/12, the director issued a notice of proposed action informing the parties that the director proposed to take enforcement action against the parties, the parties were entitled to a hearing pursuant to ORS 183.415, and if a 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 3/7/12. The notice also informed the parties that if a hearing was not conducted then the designated portion of the Insurance Division's file and all materials submitted by the parties 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.¹

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

Black has been licensed in Oregon as a nonresident individual insurance producer since 2/12/01. Black's license number is 165530, and NAIC national producer number is 267300. Black's last recorded residence and principal place of business

¹ On or about 2/22/12, Black called the Insurance Division saying that the parties would not request a hearing.

address is 12305 Sluice Box Road, Penn Valley, CA 95946-9322; and telephone number is 530-432-3642.

Columbia Evergreen has been licensed in Oregon as a nonresident business entity insurance producer since 9/15/04. Columbia Evergreen's license number is 815504, NAIC entity number is 4624774, and federal employer identification number (FEIN) is 93-1063105. Columbia Evergreen's last recorded principal place of business street address is 12305 Sluice Box Road, Penn Valley, CA 95946-9322; and telephone number is 530-432-3642. Black is believed to be the president of Columbia Evergreen.²

Administrative Action by Other State Insurance Regulator

Black and Columbia Evergreen are each subject to enforcement action pursuant to ORS 744.074(1)(i) because of the following circumstances. 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 canceled, revoked, suspended, or refused to renew, the person's license in that state as an insurance producer, adjuster or consultant. On 11/30/10, the insurance regulator for the State of California issued an order, file number SC 10728-AP, OAH number 2010100008, based on a stipulation signed by Black on behalf of himself and on behalf of Columbia Evergreen and dated 11/15/10, revoking Black's and Columbia Evergreen's California nonresident insurance producer licenses effective 12/30/10 pursuant to California Insurance Code §§1668.1 and 1738. The insurance regulator took the

² According to the Oregon Secretary of State Corporation Division business name search online at <http://egov.sos.state.or.us> on 1/23/12 for registry number 256524-88, Columbia Evergreen was registered in Oregon as a domestic corporation from 7/23/91 to 9/23/11 when it was administratively dissolved. Columbia Evergreen's last recorded address was 3637 NE 135th Avenue, Portland, OR 97230. Also according to the same search, Elena R. Black was the President and Secretary, and Alvin L. Black was the registered agent, of Columbia Evergreen. However, according to the Stipulation dated 11/15/10 signed by Black on behalf of himself and Columbia Evergreen, in California's administrative proceeding, Black was the President of Columbia Evergreen "during all relevant times mentioned herein" and as such "Black controlled, directed and managed the insurance business of" Columbia Evergreen. The alleged misconduct occurred from 12/4/01 to 7/14/08. In the First Amended Accusation dated 10/18/10, stated, *inter alia*, that "On or about August 29, 2008, in a Statement of Information by Foreign Corporation filed with the Secretary of State of the State of California, Respondent Black was identified as the President, of COLUMBIA EVERGREEN MAREKTING, INC." (Capitalized text in original).

action because Black allegedly violated California Insurance Code §§785; 1668(b), (d), (e), (i), (j) and (k); and 1668.1(a) and (b), by engaging in the conduct described in the First Amended Accusation dated 10/18/10 issued by California insurance regulator relative to file number SAC 10728-A.

Failed to Report Administrative Action by Other State Insurance Regulator

Black and Columbia Evergreen are each 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. On 11/30/10, the insurance regulator for the State of California issued an order taking the administrative action described above. The action was finally disposed of on 11/30/10. Black and Columbia Evergreen were required to notify the director of the action and provide a copy of the order by 12/30/10. Black and Columbia Evergreen have not notified the director of the action or provided a copy of the order.

Enforcement Action Against Business Entity for Acts of Individual

Columbia Evergreen is subject to enforcement action pursuant to ORS 744.074(3) because of the following circumstances. ORS 744.074(3) permits the director to only revoke, suspend, refuse to issue, or refuse to renew, the Oregon business entity insurance producer license issued to a business entity when the director determines that an individual, who was employed by or otherwise authorized to act for the business entity, and was licensed in Oregon as an individual insurance producer, violated a provision of the Insurance Code or related rules, and the partners, officers, or managers of the business entity knew or should have known of the individual's violation but the partners, officers, or managers did not report the violation to the director or did not take any corrective action or both.

At all relevant times, Columbia Evergreen was licensed in Oregon as a nonresident business entity insurance producer; Black was licensed in Oregon as a nonresident individual insurance producer; Columbia Evergreen authorized Black to act for Columbia Evergreen in the transaction of insurance; Black, as an individual, committed the violations described above; Black, as an officer of Columbia Evergreen, knew or should have known of such violations because he committed the violations; but Black, as an officer of Columbia Evergreen, did not report such violations to the director.

Order

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

Pursuant to ORS 744.074(1) and (3), Columbia Evergreen's Oregon nonresident business entity 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 March 16, 2012

/s/ Louis Savage
Louis Savage
Acting Administrator
Insurance Division
Department of Consumer and Business Services