

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

In the Matter of **Brandy M. Otteman**

) **FINAL ORDER**
) Case No. INS 13-11-001

History of the Proceeding

The Director of the Oregon Department of Consumer and Business Services (director), by and through the Insurance Division, commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take enforcement action against Brandy M. Otteman (Otteman).

On 12/3/13, the director issued a notice of proposed action informing the party that the director proposed to refuse to issue to Otteman an Oregon nonresident individual insurance producer license pursuant to ORS 744.074. The notice also informed the party that 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 12/24/13. The notice further informed the party that if a hearing was not conducted because the party did not timely request a hearing or otherwise defaulted 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.

On 12/3/13 at 11:56 AM, the director received from the party an e-mail saying "I understand that I have the right to a hearing for the case listed below. I do NOT want to request 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.

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Findings of Fact and Conclusions of Law

Licensing Information

Otteman has never been licensed in Oregon as an individual insurance producer. On 6/24/13, Otteman applied for an Oregon nonresident individual insurance producer license but the license has not been issued. Otteman's NAIC national producer number is 16507804. Otteman's last recorded residence street address is 4501 NE 51st Street Apartment 8, Vancouver, WA 98661-2579; telephone number is 360-713-7243; and e-mail address is brandyotteman@gmail.com. Otteman's last recorded business address is 10002 NE 13th Avenue Suite 107, Vancouver, WA 98686-5507; telephone number is 360-574-3515; and e-mail address is brandy.m.otteman.uj52@statefarm.com.

Convicted of Crime

Otteman is subject to enforcement action pursuant to ORS 744.074(1)(f) because of the following circumstances. ORS 744.074(1)(f) 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 was convicted of a misdemeanor involving dishonesty or breach of trust, a felony, or an offense punishable by death or imprisonment under the laws of the United States.

On 10/9/09, in the Circuit Court of the State of Oregon for Multnomah County, in the criminal case *State of Oregon v. Brandy Michelle Kraus*, case number 091034069, Otteman was charged with committing four counts of the crime of theft in the first degree, a felony, pursuant to ORS 164.055. On 3/17/10, Otteman was convicted, based on a plea of guilty, of committing the first count of the crime (hereinafter referred to as the first crime). Otteman committed the first crime on 9/19/09 by stealing \$6,700 from Safeway where she was employed at the time. The other three counts were dismissed. On 5/17/11, the court reduced the conviction from a felony to a misdemeanor.

On 5/14/13, in the Clark County District Court of the State of Washington, in the criminal case *State of Washington v. Brandy Michelle Otteman*, case number 3Z0308584, Otteman was convicted, based on a plea of guilty, of committing one count of the crime of theft in the third degree, a misdemeanor, pursuant to Revised Code of Washington (RCW) 9A.56.050 (hereinafter referred to as the second crime). Otteman

committed the second crime on 5/5/13 by stealing \$750 or less in merchandise from Kohl's Corporation.

Provided Misleading Information on Insurance License Application

Otteman 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 application for an Oregon insurance producer license or renewal thereof. On 6/24/13, the director received from Otteman an Oregon nonresident individual insurance producer license application. On the application, Otteman answered "Yes" to question 1 which asked "Have you ever been convicted of a crime....?" Since Otteman answered question 1 "Yes," the application requested Otteman to provide to the director, "(a) a written statement explaining the circumstances of each incident, b) a copy of the charging document, and c) a copy of the official document which demonstrates the resolution of the charges or any final judgment." Otteman attached to the application two documents. The first document was entitled "Petition to Plead Guilty/No Contest and Waiver of Jury or Court Trial" dated 3/17/10. The first document indicated that Otteman plead guilty to the first crime described above. In the first document, Otteman stated that she "plead guilty because, in Multnomah County, Oregon, I did the following: On September 19, 2009, I knowingly committed Theft of US Currency from Safeway, in an amount greater than \$1000.00." The second document was entitled "Order Reducing to Misdemeanor" dated 5/17/11. The second document reduced the conviction for the first crime from a felony to a misdemeanor. Otteman did not provide with the application any other statement or document relative to her criminal history. The application was misleading because Otteman disclosed that she had been convicted of the first crime but did not disclose that she had been convicted of the second crime.

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Provided Incomplete Information on Insurance License Application or Failed to Provide to Director Additional License Application Information

Ottelman is subject to enforcement action pursuant to either ORS 744.074(1)(a), or ORS 744.074(1)(b) for violating ORS 744.059(3), 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 in Oregon as an insurance producer if the person provided to the director incorrect, misleading, incomplete or materially untrue information on an application for an Oregon insurance producer license or renewal thereof. ORS 744.074(1)(b) permits the director to take any authorized enforcement action against a person who has applied for a license in Oregon as an insurance producer if the person violates any insurance law, or violates any rule, subpoena, or order of the director or of the insurance regulator of another state or Mexico or Canada. ORS 744.059(3) requires a person who has applied for a license in Oregon as an insurance producer to provide to the director any document requested by the director and necessary to verify the information in the application. On 6/24/13, the director received from Ottelman an Oregon nonresident individual insurance producer license application. On the application, Ottelman answered "Yes" to question 1 which asked "Have you ever been convicted of a crime....?" Since Ottelman answered question 1 "Yes," the application requested Ottelman to provide to the director, *inter alia*, "a copy of the charging document." Ottelman attached to the application the two documents as described above. Ottelman did not provide with the application any other statement or document relative to her criminal history. On 9/10/13 @ 4:46 PM, the director sent an e-mail to Ottelman requesting Ottelman to "explain the circumstances surrounding [the] criminal activity [relative to the first crime]; ... if you were employed by the store at the time of theft; how did you steal the money; how much did you take; who have you been working for since licensed; if the crime occurred on 9/19/09, and the conviction was on or about 03/2010, why did [it] take so long [to be convicted]; did you make restitution; explain the circumstances of how you got caught, what and how it was discovered; and ... the arrest and court documentation." On 9/10/13 @ 5:06 PM, Ottelman sent an e-mail to the director

responding to the questions in the director's e-mail. Otteman responded to the question "if you were employed by the store at the time of theft" by stating that "I was employed by the store for about a year." Otteman responded to the question "how did you steal the money" by stating that "I took the money from the safe in the bookkeeping office." Otteman responded to the question "how much did you take" by stating that "I took \$6,700.00." Otteman responded to the question "who have you been working for since licensed" by stating "I have been working for State Farm, agent Julie Moe in Vancouver WA. She is a longtime family friend and knew all surrounding facts of the case before hiring me." Otteman responded to the question why did [it] take so long [to be convicted] by stating "[i]t took so long because my case was pushed out by my court appointed attorney. She said it would look favorable if I completed everything before my trial. I completed the Theft Talk Class, completed 160 of community service, 4 days of TSI (turn self in) to Multnomah Co Jail, and paid back restitution in full by the time I was convicted. I was ordered 2 years of probation in Clark [C]ounty, where my case was transferred. I was released from probation a year early and my Felony was reduced to a misdemeanor at that time. I am not a criminal, I have paid for my mistake and I only blame myself for what I did. I know I hurt the people closet [sic] to me as well as those who trusted me at Safeway. I have learned from the choice I made and ask for your help in granting the non-resident Producer License. I am free to talk to you about anything listed or not listed if you need. My work number is (360) 574-3515 and my personal cell is (360) 713-7243." Otteman responded to the question "did you make restitution" by stating "Yes." Otteman responded to the question "explain the circumstances of how you got caught, what and how it was discovered" by stating "[t]here was money missing from the safe, and an investigation was launched. I turned myself in." Otteman responded to the request for "the arrest and court documentation" by stating "[p]lease see attachment." Attached to the e-mail was the document entitled "Petition to Plead Guilty/No Contest and Waiver of Jury or Court Trial" dated 3/17/10 as described above. The application was incomplete, or Otteman did not provide to the director the additional information

requested twice by the director, because Otteman did not provide at least the charging or convicting documents relative to the first crime.

Order

Pursuant to ORS 744.074(1), Otteman shall not be issued an Oregon nonresident individual insurance producer license.

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 DEC 16 2013



Laura N. Cali, FCAS, MAAA
Insurance Commissioner and Chief Actuary

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DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
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In the Matter of **Brandy M. Otteman**

) **CERTIFICATE of**
) **SERVICE of**
) **FINAL ORDER**
) Case No. INS 13-11-001

I certify that I sent the final order to the following person(s) on the date and by the means indicated below:

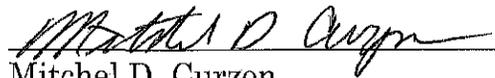
Brandy M. Otteman
4501 NE 51st Street Apartment 8
Vancouver, WA 98661-2579

<p>✓ US First Class Mail ✓ E-mail to brandyotteman@gmail.com</p>

Brandy M. Otteman
10002 NE 13th Avenue Suite 107
Vancouver, WA 98686-5507

<p>✓ US First Class Mail ✓ E-mail to brandy.m.otteman.uj52@statefarm.com</p>

Dated DEC 16 2013


Mitchel D. Curzon
Chief Enforcement Officer

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