

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of **Jesus Abel Garcia II**) **FINAL ORDER**
) Case No. INS 14-01-006

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 Jesus Abel Garcia II (Garcia).

On 1/22/14, the director issued a notice of proposed action informing the party that the director proposed to revoke Garcia's expired¹ Oregon resident individual insurance producer license pursuant to ORS 731.428 and 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 2/12/14. 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.

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.

¹ ORS 744.011 permits the director to investigate and take certain enforcement action against a person who was licensed under ORS Chapter 744 but is no longer licensed because the license expired or was surrendered.

Findings of Fact and Conclusions of Law

Licensing Information

Garcia was licensed in Oregon as a resident individual insurance producer from 3/5/07 to 6/30/13. On 6/30/13, Garcia's license expired. Garcia's NAIC national producer number is 9074845. Garcia's last recorded residence address is 365 Cameo Street NW, Salem, OR 97304-3019; and telephone number is 503-409-9010. Garcia's last recorded principal place of business address is Farmers Insurance, 113 McNary Estates Drive Suite B, Keizer, OR 97303-7488; and telephone number is 503-393-0331.

Failed to Report Criminal Prosecution

Garcia is subject to enforcement action pursuant to ORS 744.074(1)(b) for violating ORS 744.089(2) 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 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 744.089(2) requires a person who is licensed in Oregon as an insurance producer to notify the director of any criminal prosecution of the person; and provide a copy of the initial complaint, order resulting from the hearing and any other relevant legal documents, within 30 days after the pretrial hearing. On 8/1/13, in the Circuit Court for the State of Oregon for Marion County, in the criminal case *State of Oregon v. Jesus Abel Garcia*, case number 13C44073, Garcia was charged with committing four counts of the crime of theft in the first degree, a felony, pursuant to ORS 164.055; two counts of the crime of theft in the second degree, a misdemeanor, pursuant to ORS 164.045; and two counts of the crime of theft of identity, a felony, pursuant to ORS 165.800. Garcia committed the crimes on or about from 4/4/12 to 9/21/12 by stealing money from, or the identity of, 19 persons. On 8/1/12, Garcia appeared before the court to respond to the charges. On 11/14/13, Garcia was convicted, based on a plea of guilty, of committing three counts of the crime of theft in the first degrees. The other charges were dismissed. Garcia was required to notify the director of the criminal prosecution, and provide a copy of the specified documents, by

8/31/12. Garcia has not notified the director of the action or provided a copy of the specified documents.

Convicted of Crime and

Convicted of Felony Involving Dishonesty or Breach of Trust

Garcia is subject to enforcement action pursuant to ORS 744.074(1)(f) and ORS 731.428(4) 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. ORS 731.428(4) requires the director to revoke, suspend, or refuse to renew, the Oregon insurance producer license issued to a person who was convicted of, among other things, a felony involving dishonesty or a breach of trust. 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." On 11/14/13, Garcia was convicted of three counts of the crime of theft in the first degree, a felony, as described above.

Failed to Respond to Director's Inquiry

Garcia is subject to enforcement action pursuant to ORS 744.074(1)(b) for violating 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 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 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 or about 10/15/12, the director received by fax from Rex Lucas (Lucas), of Aumsville, Oregon, a complaint that Garcia received, but kept, two refunds of insurance premium paid by two insurers to Lucas. On 10/23/12, the director mailed

by certified mail a letter dated 10/23/12 to Garcia to his last recorded residence address of 365 Cameo Street NW, Salem, OR 97304-3019. The letter requested Garcia to provide certain information about the complaint to the director by 11/14/12. On 10/24/12, a person believed to be Garcia signed for the letter. Garcia never responded to the letter.

On or about 9/12/13, the director mailed by certified mail a letter dated 9/12/13 to Garcia to his last recorded residence address of 365 Cameo Street NW, Salem, OR 97304-3019. The letter requested Garcia to provide certain information about the complaint to the director by 10/3/13. On 9/24/13, a person believed to be Meleny Garcia signed for the letter. Garcia never responded to the letter.

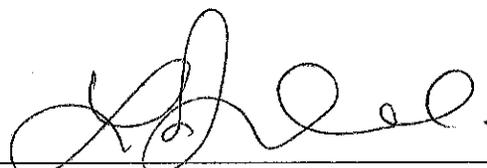
Order

Pursuant to ORS 744.074(1), Garcia'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 MAR 11 2014



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

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

In the Matter of **Jesus A. Garcia II**

) **CERTIFICATE of**
) **SERVICE of**
) **FINAL ORDER**
) Case No. INS 14-01-006

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

Jesus A. Garcia II
365 Cameo Street NW
Salem, OR 97304-3019

✓ US First Class Mail

Dated **MAR 11 2014**



Mitchel D. Curzon
Chief Enforcement Officer

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