

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

In the Matter of Kyle L. DesVergnes

) **FINAL ORDER**  
) Case No. INS 15-01-001

**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 Kyle L. DesVergnes (DesVergnes).

On 1/27/15, the director issued a notice of proposed action informing the party that the director proposed to revoke DesVergnes' Oregon resident 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 2/17/15. 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 1/29/15 @ 4:32 PM, the party sent an e-mail to the director saying "I do not wish to continue this any further. Please revoke license."

The director 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.

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## Findings of Fact and Conclusions of Law

### Licensing Information

DesVergnes has been licensed in Oregon as a resident individual insurance producer since 3/31/08. DesVergnes' license is scheduled to expire on 5/31/16. DesVergnes' NAIC national producer number is 10358337. DesVergnes' last recorded residence and business address is 14099 SE Summerfield Loop, Happy Valley, OR 97086-5393; telephone number is 503-880-8816; and e-mail address is [kyle\\_desvergnnes@yahoo.com](mailto:kyle_desvergnnes@yahoo.com).

### Demonstrated Untrustworthiness in Business

DesVergnes is subject to enforcement action pursuant to ORS 744.074(1)(h). ORS 744.074(1)(h) 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 used a fraudulent, coercive, or dishonest practice, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in Oregon or elsewhere. DesVergnes demonstrated untrustworthiness in the conduct of business of insurance in Oregon by engaging in the following conduct. At all relevant times, DesVergnes was an agent contracted with State Farm Mutual Automobile Insurance Company and its affiliated insurers (State Farm). As an agent, DesVergnes was authorized to use State Farm's electronic information resources for State Farm's business purposes but not for DesVergnes personal purposes. On 6/15/13, DesVergnes was involved in a motor vehicle accident in Gresham, Oregon. The accident was caused by another driver. DesVergnes suffered bodily injury and property damage. On or about 6/17/13, and again on or about 11/6/13, DesVergnes accessed and used State Farm's electronic information resources to obtain the motor vehicle liability insurance coverage limits of the other driver. On 6/17/13 @ 10:05 AM, DesVergnes sent an e-mail to his mother, Susan DesVergnes, saying:

Dropped the truck off and got a white Tahoe to pull boat. We'll see what they say. I'm guessing [\$]10,000 in damage. I guess a few airbags did go off, and locked the seat belt. That is very expensive they

say. I ran the girls name to see what her liability limits are and she has \$50,000 per person for bodily injury? So I am going to use [\$]5,000 for chiro[practic care] and ER [emergency room care], and ask to settle for \$45,000. And if they won't agree, I am going to get an attorney.

On or about 11/6/13, DesVergnes accessed and used State Farm's electronic information resources to again obtain the motor vehicle liability insurance coverage limits of the other driver.

Failed to Notify Director of Change of Business Address or Telephone Number

DesVergnes is subject to enforcement action pursuant to ORS 744.074(1)(b) for violating ORS 744.068(4)(a). 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 744.068(4)(a) requires a person licensed in Oregon as an insurance producer to notify the director of a change of address or telephone number of the principal place of business or any location at which the insurance producer transacts business not later than the 30th day after the date of the change. On or about 1/10/14, DesVergnes stopped working at 500 NW Eastman Parkway, Gresham, OR 97030-7252. DesVergnes was required to notify the director of the change by 2/10/14. On 5/14/14, 93 days late, DesVergnes notified the director of the change but only after the director began investigating DesVergnes and requested him to provide the information to the director.

Failed to Notify Director of Change of Residence Address

DesVergnes is subject to enforcement action pursuant to ORS 744.074(1)(b) for violating ORS 744.068(4)(c). 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 744.068(4)(c) requires a person licensed in Oregon as a resident insurance producer to notify the director of

a change in residence address not later than the 30<sup>th</sup> day after the date of the change. On or about 2/14/14, DesVergnes moved from 9701 SE Johnson Creek Boulevard Apartment H304, Portland, OR 97086-3688 to 14099 SE Summerfield Loop, Happy Valley, OR 97086-5393. DesVergnes was required to notify the director of the change by 3/17/14. On 5/14/14, 58 days late, DesVergnes notified the director of the change but only after the director began investigating DesVergnes and requested him to provide the information to the director.

Failed to Completely and Truthfully Respond to Director's Inquiry

DesVergnes is subject to enforcement action pursuant to ORS 744.074(1)(b) for violating ORS 731.296. 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 5/2/14, the director mailed by first class and certified mail a letter dated 5/2/14 addressed to DesVergnes at his then former, but last reported, residence address of 9701 SE Johnson Creek Boulevard Apartment H304, Portland, OR 97086-3688. On 5/5/14, the director mailed by first class and certified mail the letter dated 5/2/14 addressed to DesVergnes' at his then current, but unreported, residence address of 14099 SE Summerfield Loop, Happy Valley, OR 97086-5393. The letter requested DesVergnes provide certain information to the director by 5/23/14. The letter also warned DesVergnes that "[i]f you need more time to respond, then you must request an extension before this date. Failure to respond, delay in responding, or incompletely responding to this letter by the due date is a violation of ORS 731.296." On 5/14/14, the director received by mail an undated letter from DesVergnes in which DesVergnes failed to completely answer four questions, and untruthfully answered one very critical question. DesVergnes' failure to answer the questions, and his untruthful answer of the one question, protracted the director's

investigation of DesVergnes. DesVergnes did not provide, or explain why he could not provide, the other driver's address as requested in question 7. Also, DesVergnes did not describe what information he obtained about the other driver as requested in question 8. Also DesVergnes did not say whether he used State Farm's Agent Business System (ABS) as requested in question 10. Also, DesVergnes did not explain whether he had State Farm's permission to use State Farm's electronic information resources for the purpose that he used them as requested in question 10. DesVergnes answered question 9 which asked him to explain what he did to obtain the other driver's motor vehicle liability insurance limits. DesVergnes said that he obtained the limits in the course of preparing an insurance premium quote requested by the other driver. DesVergnes stated:

Regarding [the] email from June 17<sup>th</sup> 2013, [the other driver] who rear ended me in the accident submitted her information for an insurance quote (after she purchased her new car since the one she hit me with was totaled) to one of the lead companies that we used at State Farm (Net quote, Agent Insider, Quote Noodle etc.) I do not recall which one it was since it was quite a while ago. While working up the quote for her, I was able to see what her liability limits were at the time. That information is of interest to me since my injuries were quite severe and will more than likely have life-lasting effects on me and I will continue to require medical care.

DesVergnes' answer was not truthful because the other driver did not request a quote.

### **Order**

Pursuant to ORS 744.074(1), DesVergnes' 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@oregon.gov](mailto:mitchel.d.curzon@oregon.gov).

Dated FEB 03 2015



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

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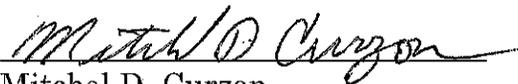
) **CERTIFICATE of**  
) **SERVICE of**  
) **FINAL ORDER**  
) Case No. INS 15-01-001

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

Kyle L. DesVergnes  
14099 SE Summerfield Loop  
Happy Valley, OR 97086-5393

<p>✓ US First Class Mail ✓ E-mail to <u><a href="mailto:kyle_desvergnnes@yahoo.com">kyle_desvergnnes@yahoo.com</a></u></p>
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Dated       **FEB 03 2015**      

  
Mitchel D. Curzon  
Chief Enforcement Officer

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