

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of:

Case No. INS 15-07-010

ROGELIO MONTOYA MALDONADO,
Licensee.

FINAL ORDER TO CEASE AND
DESIST AND ORDER REVOKING
LICENSE, ENTERED BY DEFAULT

On September 21, 2015, the Director of the Oregon Department of Consumer and Business Services (“Director”), by and through the Division of Financial Regulation (“Division”), formerly the Insurance Division, properly served notice on Rogelio Montoya Maldonado (“Montoya”) that the Director intended to revoke Montoya’s Oregon resident insurance producer license.

The Notice offered Montoya an opportunity for hearing if requested within 21 days of service of the notice. The Notice further informed Montoya that if a hearing was not conducted because Montoya did not timely request a hearing or otherwise defaulted, then the designated portion of the Director’s file and all materials submitted by Montoya 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 Montoya 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.

NOW THEREFORE, after considering the relevant portions of the Director’s file relating to this matter, the Director finds and orders as follows.

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Labor and Industries Building
350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387



1 FINDINGS OF FACT

2 1. Montoya has been licensed as an Oregon resident insurance producer since
3 March 29, 2010. His NAIC national producer number is 15049850.

4 2. On December 24, 2013, the Division received an Oregon consumer complaint
5 regarding Montoya.

6 3. On October 29, 2014, the Division sent an inquiry letter to Montoya at his last
7 recorded residence address via regular and certified mail. The letter requested a response
8 by December 1. Montoya did not respond.

9 4. On November 4, 2014, the Division sent an inquiry to Montoya at his last
10 recorded business address via regular and certified mail. The letter requested a response
11 by December 4, 2014. Montoya did not respond.

12 5. On December 4, 2014, the Division received notice from Farmers Insurance
13 (“Farmers”) that Montoya was terminated after an independent investigation by Farmers
14 showed that Montoya embezzled \$16,668.31 between October 2013 and November 2013.
15 Montoya collected insureds’ cash premiums and failed to remit the premiums to Farmers.

16 6. Farmers also provided the Division with a statement, signed by Montoya, in
17 which Montoya admits to imputing fictitious electronic funds transfers (“EFT”) bank
18 account information on at least 33 accounts in order to lower the amount of premium
19 required to place the policy in force.

20 7. On January 20, 2015, the Division sent Montoya an inquiry letter regarding
21 the Farmers investigation to an address obtained through a Department of Motor Vehicles
22 records search. The letter requested a response by February 20, 2015. Montoya did not
23 respond.

24 CONCLUSION OF LAW

25 8. Under ORS 744.074(1)(d), the Director may revoke an insurance producer
26 license if the licensee has improperly withheld, misappropriated, or converted any

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1 moneys or properties received in the course of doing insurance business. By collecting
2 cash premium payments, and not remitting those payments to Farmers, Montoya
3 improperly withheld, misappropriated, and converted moneys received in the course of
4 doing insurance business.

5 9. Under ORS 744.074(1)(h), the Director may revoke an insurance producer
6 license if the licensee has used fraudulent, coercive or dishonest practices, or
7 demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct
8 of business in Oregon or elsewhere. By inputting fictitious EFT account information, as
9 evidenced by his signed statement included in the Farmers investigation, Montoya has
10 used fraudulent and dishonest practices. Furthermore, by not remitting insureds'
11 premiums due to Farmers, Montoya has demonstrated untrustworthiness and financial
12 irresponsibility.

13 10. Under ORS 731.296, any licensee must promptly and truthfully reply to the
14 proper inquiries made by the Director. Montoya did not timely respond to the Director's
15 inquiries sent in October 2014, December 2014, or January 2015.

16 11. Under ORS 744.074(1)(b), the Director may revoke a license if the producer
17 violates any insurance law. ORS 731.296 is an insurance law.

18 ORDER

19 Now therefore, the Director issues the following Orders:

20 12. As authorized by ORS 731.252(1), the Director ORDERS Licensee to CEASE
21 AND DESIST from violating any provision of the Insurance Code or the administrative
22 rules promulgated thereunder.

23 13. As authorized by ORS 744.074(1)(b), Rogelio Maldonado Montoya's Oregon
24 resident insurance producer license is hereby REVOKED.

25 14. This Order is a "Final Order" under ORS 183.310(6)(b). Subject to that
26 provision, the entry of this Order does not limit other remedies, sanctions, or actions

