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3 STATE OF OREGON  
4 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
5 DIVISION OF FINANCIAL REGULATION

6 In the Matter of:

Case No. INS 16-0278

7 CHERRYL YVONNE SMITH,

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

8 Licensee.

9 On June 13, 2016, the Director of the Department of Consumer and Business  
10 Services for the State of Oregon (“Director”), acting in accordance with the Oregon  
11 Revised Statutes (“ORS”) chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 744,  
12 746, 748 and 750 (“Insurance Code”) and specifically ORS 744.074, issued  
13 Administrative Order No. INS-16-0278, ORDER TO CEASE AND DESIST, NOTICE  
14 OF PROPOSED ORDER REVOKING LICENSE AND OPPORTUNITY FOR  
15 HEARING (the “Notice Order”) against Respondent Cheryl Yvonne Smith  
16 (“Licensee”).

17 On June 14, 2016, the Notice Order was served on Licensee by mailing a certified  
18 true copy of the Notice Order to Licensee, via certified United State Mail, postage  
19 prepaid, at 2271 Poplar Drive Apt. 2, Medford, OR 97504-5279 (Article No. 7014 2870  
20 0001 3527 8852), the most recent address identified for Licensee. The certified mail  
21 receipt that was returned to the Director was signed by Licensee, and provided that  
22 Licensee received the Notice Order on June 16, 2016.

23 On June 14, 2016, the Notice Order was also served on Licensee by mailing a  
24 certified true copy of the Notice Order to Licensee via first class mail to the address noted  
25 below.

26 Licensee did not timely or properly request a hearing.

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



1 In accordance with ORS 183.417(4) and OAR 137-003-0670(3), the Notice Order  
2 designates the file of the Oregon Division of Financial Regulation, including all material  
3 submitted by Licensee, as the record for the purpose of making a prima facie case in the  
4 event that the Director entered a final order against Licensee by default.

5 The Director finds that the record of this proceeding proves a prima facie case.

6 Now, therefore, after consideration of the record, the Director issues the following  
7 Findings of Fact, Conclusions of Law, and Final Order

8 FINDINGS OF FACT

9 The Director FINDS that:

10 1. Licensee obtained an Oregon Resident Insurance Producer License  
11 (“License”) on or around July 2, 2001. The License expired on April 30, 2016 for failure  
12 to renew.

13 2. Licensee’s NAIC national producer number is 6255709.

14 3. On or around April 6, 2016, Licensee’s former employer, Allstate Insurance  
15 Company (“Allstate”), notified the Oregon Division of Financial Regulation (the  
16 “Division”), formerly the Insurance Division, that it had terminated Licensee’s  
17 employment with Allstate “for cause” due to theft.

18 4. An investigation by the Division revealed that Licensee misappropriated or  
19 converted insurance premium payments that she received from no less than four  
20 consumers. Licensee used such consumer funds for personal purposes, and to repay the  
21 funds of other consumers which she had previously misappropriated.

22 5. On or about February 11, 2016, Licensee was indicted by a grand jury in the  
23 Circuit Court of the State of Oregon, Jackson County, on one county of Theft in the First  
24 Degree, a felony, and two counts of Theft in the Second Degree, a misdemeanor.

25 6. On or around April 19, 2016, Licensee pleaded guilty to two counts of Theft  
26 in the Second Degree, and thereby was convicted of the same (the “Convictions”),

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1 and the remaining charge was dismissed.

2 CONCLUSIONS OF LAW

3 The Director CONCLUDES that:

4 7. Under ORS 744.011, the Director may investigate and take certain  
5 enforcement action, including revocation of a license, against a person who was licensed  
6 under ORS Chapter 744 but is no longer licensed because the license expired or was  
7 surrendered.

8 8. Under ORS 744.074(1)(d), the Director may revoke an insurance producer  
9 license if a licensee improperly withholds, misappropriates or converts any moneys or  
10 properties received in the course of doing insurance business.

11 9. Under ORS 744.074 (1)(f), the Director may revoke an insurance producer  
12 license if a licensee is convicted of a misdemeanor involving dishonesty or breach of  
13 trust. The record of the conviction shall be conclusive evidence of the conviction.

14 10. The Director may revoke Licensee's License under ORS 744.074(1)(d), on the  
15 basis that Licensee misappropriated or converted insurance premium payments that she  
16 received from no less than four consumers in the course of doing insurance business.  
17 Smith used such consumer funds for personal purposes, and to repay the funds of other  
18 consumers which she had previously misappropriated.

19 11. The Director may revoke Licensee's License under ORS 744.074(1)(f), on the  
20 basis that Licensee was convicted of two counts of Theft in the Second Degree, a  
21 misdemeanor which in this instance involved dishonesty and breach of trust.

22 ORDERS

23 Now therefore, the Director issues the following Orders:

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

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1 13. As authorized by ORS 744.011 and 744.074, the Director hereby REVOKES  
2 Licensee's Resident Insurance Producer License on the basis of ORS 744.074(1)(d) and  
3 (1)(f).

4 AUTHORITY OF THE DIRECTOR TO SEEK OTHER REMEDIES UNDER  
5 OREGON LAW

6 14. This Order is a "Final Order" under ORS 183.310(6)(b). Subject to that  
7 provision, the entry of this Order does not limit other remedies, sanctions, or actions  
8 which may be available to the Director under Oregon law.

9  
10 IT IS SO ORDERED this 12th day of July, 2016 in Salem, Oregon.

11 PATRICK M. ALLEN, Director  
12 Department of Consumer and Business Services

13 /s/ David C. Tatman  
14 David C. Tatman, Chief of Enforcement  
15 Division of Financial Regulation

16  
17 NOTICE OF RIGHT TO APPEAL

18  
19 You are entitled to judicial review of this order in accordance with ORS 183.482.  
20 You may request judicial review by filing a petition with the Court of Appeals in Salem,  
21 Oregon, within 60 days from the date this order is served.

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