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2 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**
3 **DIVISION OF FINANCIAL REGULATION**

4 In the Matter of:

Agency Case No. INS 15-11-002
OAH Case No. INS 15-11-022

5 JOSEPH M. TEDRICK,

6
7 Licensee.

FINAL ORDER TO CEASE AND
DESIST AND ORDER REVOKING
LICENSE

8
9 **THIS IS A FINAL ORDER**

10 **HISTORY OF THE CASE**

11
12 On February 19, 2016, the Department of Consumer and Business Services,
13 Division of Financial Regulation (Division or DFR)¹ issued an Order to Cease and Desist,
14 Notice of Proposed Order Revoking License to Joseph M. Tedrick (Licensee). On March
15 3, 2016, Licensee requested a hearing.

16 On March 8, 2016, the Division referred the hearing request to the Office of
17 Administrative Hearings (OAH). The OAH assigned Administrative Law Judge (ALJ)
18 Rick Barber to preside at hearing. ALJ Barber convened a prehearing conference on
19 April 19, 2016. The parties agreed to a September 26, 2016 hearing date, and set a
20 schedule for briefing on the Motion for Summary Determination that the Division
21 intended to file.

22 On June 8, 2016, the Division issued its First Amended Order to Cease and
23 Desist, Notice of Proposed Order Revoking License (Amended Notice). On June 29,
24 2016, the Division issued a Second Amended Order to Cease and Desist, Notice of
25 Proposed Order Revoking License (Second Amended Notice).

26 On July 1, 2016, Assistant Attorney General Tyler Anderson filed a Motion for
Summary Determination on behalf of the Division. Licensee did not file a timely²
response to the motion and, when no response had been filed by the due date of July 22,
2016, the record for the motion was closed.

On August 22, 2016, ALJ Barber issued a Ruling on Motion for Summary
Determination, concluding that the Division had established Licensee's violation of the

¹ DFR incorporates what was previously known as the Insurance Division.

² Licensee filed a responsive document on August 23, 2016, after the Ruling issued.





1 November 10, 2015 Consent Order by his failure to report his criminal charges stemming
2 from a December 30, 2015 arrest, and by his failure to report his insurance-related
3 activities for the months of November 2015 through January 2016 in a timely manner.
The ALJ denied summary determination of other issues raised by the Division and
reserved them for hearing.

4 On August 31, 2016, after the Ruling was published, the Division issued its Third
5 Amended Notice, withdrawing all of the other issues besides those granted in the
6 previous Ruling, and renewed its motion, requesting revocation of Licensee's insurance
7 producer license based just upon the failures to report mentioned above. On September
2, 2016, ALJ Barber sent a letter to Licensee inviting his response to the new notice and
the renewed motion.

8 On September 6, 2016, Licensee sent an email response to the new notice. On
9 September 9, 2016, Licensee sent a letter response as well. Both are considered a
response to the new notice and to DFR's renewed motion. They are not considered a
timely response to the initial motion that led to the August 22, 2016 Ruling.

10 The Division withdrew all of the allegations that had been reserved for hearing,
11 and further contended that the matters already proved are sufficient to justify revocation.
ALJ Barber considered the motion under the new notice, and concluded that the issues
12 established by the Division in the previous ruling are sufficient to warrant revocation of
Licensee's producer license. On September 14, 2016, ALJ Barber reissued the ruling as a
13 Proposed Order, cancelled the hearing set for September 26, 2016, and affirmed the
Division's Third Amended Notice. ALJ Barber's Ruling afforded Licensee 30 days to
14 file written exceptions with the Director of the Department of Consumer and Business
Service (Director). To date, the Director received no exceptions.

15 Now, therefore, having reviewed the entire record in the matter, the
16 Director issues the following Findings of Fact, Conclusions of Law and Final Order,
17 consistent with that proposed by ALJ Barber, and Notice of Right to Judicial Review.

18 The Director adopts ALJ Barber's recommended decision and issues this Final
19 Order, without modification of ALJ Barber's Findings of Fact. The Opinion section has
been supplemented for grammatical purposes only.

20 ISSUES

21 1. Whether there remain any material questions of fact about the following
22 allegations made by the Division:

23 a. That Licensee violated the November 10, 2015 Consent Order by failing to
24 report the December 30, 2015 criminal charges against him within 14 days;

25 b. That Licensee violated the November 10, 2015 Consent Order by failing to
26 timely submit to the Director his monthly description of his insurance-related
activities for the months of November 2015 through January 2016.

2. Whether, if there are no remaining material questions of fact to be decided, the Division is entitled to revoke Licensee's license as a matter of law and require him to cease and desist from violating applicable insurance laws.

NATURE OF THE REVIEW

Pursuant to OAR 137-003-0580, a Motion for Summary Determination may be filed by the agency or a party not less than 28 days before the date set for hearing, requesting a ruling on the legal issues in the contested case. The rule sets forth the standard by which the motion is reviewed. It states, in pertinent part:

Motion for Summary Determination

(1) Not less than 28 calendar days before the date set for hearing, the agency or a party may file a motion requesting a ruling in favor of the agency or party on any or all legal issues (including claims and defenses) in the contested case. The motion, accompanied by any affidavits or other supporting documents, shall be served on the agency and parties in the manner required by OAR 137-003-0520.

(2) Within 14 calendar days after service of the motion, the agency or a party may file a response to the motion. The response may be accompanied by affidavits or other supporting documents and shall be served on the agency and parties in the manner required by OAR 137-003-0520.

* * * * *

(6) The administrative law judge shall grant the motion for a summary determination if:

(a) The pleadings, affidavits, supporting documents (including any interrogatories and admissions) and the record in the contested case show that there is no genuine issue as to any material fact that is relevant to resolution of the legal issue as to which a decision is sought; and

(b) The agency or party filing the motion is entitled to a favorable ruling as a matter of law.

(7) The administrative law judge shall consider all evidence in a manner most favorable to the non-moving party or non-moving agency.

(8) Each party or the agency has the burden of producing evidence on any issue relevant to the motion as to which that party or the agency would have the burden of persuasion at the contested case hearing.

(9) A party or the agency may satisfy the burden of producing evidence through affidavits. Affidavits shall be made on personal knowledge,



1 establish that the affiant is competent to testify to the matters stated therein
2 and contain facts that would be admissible at the hearing.

3 (10) When a motion for summary determination is made and supported as
4 provided in this rule, a non-moving party or non-moving agency may not
5 rest upon the mere allegations or denials contained in that party's or
6 agency's notice or answer, if any. When a motion for summary
7 determination is made and supported as provided in this rule, the
8 administrative law judge or the agency must explain the requirements for
9 filing a response to any unrepresented party or parties.

10 (11) The administrative law judge's ruling may be rendered on a single
11 issue and need not resolve all issues in the contested case.

12 (12) If the administrative law judge's ruling on the motion resolves all
13 issues in the contested case, the administrative law judge shall issue a
14 proposed order in accordance with OAR 137-003-0645 incorporating that
15 ruling or a final order in accordance with 137-003-0665 if the
16 administrative law judge has authority to issue a final order without first
17 issuing a proposed order.

18 OAR 137-003-0580. ALJ Barber reviewed and decided the motion interpreting the facts
19 in a way that is most favorable to Licensee, the non-moving party.

20 DOCUMENTS REVIEWED

21 In preparation for ruling on the motion, ALJ Barber reviewed the following
22 documents: The Division's motion; the Division's notices; and Exhibits A through J.

23 FINDINGS OF FACT

24 1. On October 19, 2015, Licensee applied for an Oregon Resident Insurance
25 Producer License with the Division. (Ex. A). As part of the application process, Licensee
26 divulged his previous criminal history to the Division. On October 9, 2007, Licensee was
convicted of four misdemeanor counts of Theft II. (Ex. B). On November 26, 2008, he
was convicted of two counts of First Degree Assault, one count of Second Degree
Assault and two counts of Unlawful Use of a Weapon, all felonies. (Ex. C).

2. On November 10, 2015, as a condition of licensure with the Division,
Licensee agreed to sign a Stipulation and Consent Order (Probation). The Consent Order
recited the statutes allowing the Director to deny a license to applicants with a criminal
history, and set forth several probationary requirements Licensee was required to follow
to be licensed. Among those requirements were:

1. Tedrick will obey all federal, state, and local laws;
2. Tedrick will comply with all applicable insurance statutes, rules, and regulations;

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- 8. Tedrick *will report to the Director within 14 days* any new criminal charges brought against him as well as the disposition of any criminal charges against him that are dismissed, that result in a judgment of conviction, or that are otherwise resolved during the term of probation;
- 9. Tedrick *will report to the Director in writing not later than the tenth day of each calendar month*, providing a description of his insurance-related activities during the preceding month;
- 10. The term of probation will be two years from the issuance of a License to Tedrick unless extended by the Director.

(Ex. D at 2; emphasis added).

3. On December 30, 2015, the Multnomah County District Attorney’s office filed a Criminal Information alleging that Licensee committed the crime of Assault in the Fourth Degree, as well as Criminal Trespass in the First Degree (both misdemeanors). He was commanded to appear for trial on February 5, 2016. (Ex. E, J).

4. On February 12, 2016, Division investigator Stephanie Noren emailed Licensee to ask why he had not provided the monthly statements of insurance-related activities to the Director by the tenth of each month, and why he had not reported his arrest for Assault to the Director within 14 days. Ms. Noren advised Licensee that he must respond to her email on or before February 19, 2016. Licensee responded by email on February 16, 2016, stating in part:

I would like to start by just emphasizing that I was very unclear about the monthly reporting. I thought it was every six months. I am truly sorry about this error. I guess I’ve only missed December since I got my license in November.

* * * * *

I have not reported the [arrest] issue to the commissioner because I thought in the contract it says to report after the conclusion of charges. And I have not been convicted and will very likely not be convicted. Also I just got released a week and a half ago so I’ve been dealing with all my bills and stuff from before the incident. I am by no means trying to not follow my contract and I will start the reporting process right away now that it is clear to me it must be every month. And I will keep the state informed of the outcome of the case which since it’s a misdemeanor should be resolved quickly.

* * * These mistakes won’t happen again! I learn from them and implement change. I have a house and a car and have been doing all the things needed to reintegrate back into society. Please don’t pull this rug out from under me. * * * I can absolutely guarantee there will not be any further issues and you have my word I will report every month.

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1 (Ex. F). On February 19, 2016, the Division issued its first Notice in the case, seeking to
2 revoke Licensee's insurance producer license. (Notice).

3 **CONCLUSIONS OF LAW**

- 4 1. There are no remaining material questions of fact about the following:
- 5 a. Licensee violated the November 10, 2015 Consent Order by failing to report
6 the December 30, 2015 criminal charges against him within 14 days;
- 7 b. Licensee violated the November 10, 2015 Consent Order by failing to timely
8 submit to the Director his monthly description of his insurance-related activities
9 for the motions of November 2015 through January 2016.
- 10 2. The Division is entitled to revoke Licensee's license.

11 **OPINION OF ALJ BARBER**

12 The Division contends that Licensee's producer license should be revoked
13 because he has failed to abide by the probationary requirements he agreed to in the
14 Consent Order. I agree with the Division.

15 As part of the Consent Order, which the Division demanded because of
16 Licensee's past criminal history, Licensee was required to report any new criminal
17 charges within 14 days of being charged. He was also required to make a monthly report
18 of his insurance-related activities by the tenth day of the following month (*i.e.*, the
19 December report was due on January 10, etc.).

20 The correspondence between Ms. Noren and Licensee between February 12 and
21 16, 2016, demonstrated that Licensee had not followed the terms of the Consent Order
22 concerning his December 30, 2015 arrest and charges of Assault IV and Criminal
23 Trespass, because he did not report the charges to the Director within 14 days after being
24 charged. He also failed to timely report to the Director his insurance-related activities for
25 December or January (the latter of which would have been due by February 10, 2016).
26 The Division's evidence of these failures is found in Ms. Noren's communication with
Licensee, and with his admission that he had not complied with the Consent Order.
Licensee apologized for those failures, claiming he had not understood the terms of the
Consent Order, and promised there would be no more failures on his part.³

Thus, the Division has alleged at least four separate violations of the Consent
Order in the case—one each for failing to timely report his insurance-related activities
between November 2015 and January 2016, and also for failing to timely apprise the
Director of the criminal charges from December 30, 2015.

³ The Division's initial Notice was dated February 19, 2016, indicating that it intended to revoke
Licensee's producer license as a result of Licensee's response to Ms. Noren.



1 The legal standards in the case are clear. A licensee may be disciplined for
2 violating an order of the director, and for violating any insurance statute or rule. ORS
744.074 states in part:

3 **Authority of director to place licensee on probation or to suspend,**
4 **revoke or refuse to issue or renew license.** (1) *The Director of the*
5 *Department of Consumer and Business Services may place a licensee on*
6 *probation or suspend, revoke or refuse to issue or renew an insurance*
7 *producer license and may take other actions authorized by the Insurance*
8 *Code in lieu thereof or in addition thereto, for any one or more of the*
9 *following causes:*

10 (a) Providing incorrect, misleading, incomplete or materially untrue
11 information in the license application.

12 (b) *Violating any insurance laws, or violating any rule, subpoena or order*
13 *of the director or of the insurance commissioner of another state or*
14 *Mexico or Canada.*

15 (Emphasis added). The Consent Order is an order of the Director, and Licensee has been
16 accused of violating that order on multiple occasions.

17 With the information in Ms. Noren's February 2016 email to Licensee, and the
18 admissions in his response, the Division has shown that Licensee failed to timely provide
19 his monthly insurance-related activity reports to the Director for the months of November
20 2015 through January 2016.

21 The Division has established Licensee's failure to timely report the December 30,
22 2015 criminal charges, and also his failure to timely report his insurance-related activities
23 for November 2015 through January 2016, as well as his failure to inform the Director of
24 his December 30, 2015 criminal charges.

25 Therefore, because the charges proven by the Division justify revocation of
26 Licensee's producer license, the motion is granted and his license shall be revoked. The
hearing is canceled.

ORDER

The foregoing is incorporated. The Director issues the following Orders:

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

2. In accordance with ORS 744.074(1)(b), the Director REVOKES
Licensee's Resident Insurance Producer License for violating the November 10, 2015
Consent Order issued by the Director by (1) failing to timely report his December 30,
2015 Assault in the Fourth Degree charge to the Director, and (2) failing to timely report



1 to the Director his insurance-related activities for the months of November 2015,
2 December 2015 and January 2016.

3 This Order is a FINAL ORDER under ORS 183.310(6)(b). Subject to that
4 provision, the entry of this Final Order does not limit other remedies that are available to
5 the Director under Oregon law.

6 SO ORDERED this 25th day of October, 2016.

7 PATRICK M. ALLEN, Director
8 Department of Consumer and Business Services

9 /s/ David Tatman
10 David Tatman, Chief of Enforcement
11 Division of Financial Regulation

12 **NOTICE OF RIGHT TO JUDICIAL APPEAL**

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

16 *[The remainder of this page intentionally left blank.]*

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