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

4 In the Matter of:

5 SHARRON A. SHORTRIDGE,

6 Licensee.

Agency Case No. INS-16-0211

OAH Case No. INS-16-0211

7 FINAL ORDER TO CEASE AND
8 DESIST AND ORDER REVOKING
9 LICENSE

10 **THIS IS A FINAL ORDER**

11 **HISTORY OF THE CASE**

12 On May 24, 2016, the Department of Consumer and Business Services, Division
13 of Financial Regulation (Division or DFR)¹ issued an Order to Cease and Desist, Notice
14 of Proposed Revocation of License (Notice) to Sharron A. Shortridge (Licensee).² On
15 June 2, 2016, Licensee requested a hearing.

16 On June 14, 2016, the Division referred the hearing request to the Office of
17 Administrative Hearings (OAH). The OAH assigned Senior Administrative Law Judge
18 (ALJ) Bernadette Bignon to preside at hearing. On July 7, 2016, Senior ALJ Monica
19 Whitaker convened a prehearing conference on ALJ Bignon's behalf. The parties agreed
20 to an October 18, 2016 hearing date, and set a briefing schedule on the Motion for
21 Summary Determination that the Division intended to file.

22 On August 19, 2016, Assistant Attorney General Tyler Anderson filed a Motion
23 for Summary Determination on behalf of the Division. Licensee did not file a response to
24 the motion and, when it became apparent that no response had been filed, the record for
25 the motion was closed. The matter was transferred to ALJ Rick Barber to rule on the
26 motion and to preside over the hearing, if necessary.

On September 19, 2016, ALJ Barber issued the ruling as a Proposed Order,
cancelled the hearing set for October 18, 2016, and affirmed the Division's Notice. ALJ
Barber's Ruling afforded Licensee 30 days to file written exceptions with the Director of
the Department of Consumer and Business Service (Director). To date, the Director
received no exceptions.

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

² DFR issued an Amended Order to Cease and Desist, Notice of Proposed Revocation of License on August 17, 2016.



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

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

7 ISSUES

8 1. Whether there remain any material questions of fact about the Division's
9 allegations:

- 10 a. that Licensee failed to report a criminal prosecution against her within
11 30 days of the initial pretrial hearing; and
- 12 b. that Licensee was convicted of a felony.

13 2. Whether, if there are no remaining material questions of fact to be
14 decided, the Division is entitled to revoke Licensee's license for violation of ORS
15 744.089(2) and/or ORS 744.074(1)(f).

16 NATURE OF THE REVIEW

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

21 Motion for Summary Determination

22 (1) Not less than 28 calendar days before the date set for hearing, the
23 agency or a party may file a motion requesting a ruling in favor of the
24 agency or party on any or all legal issues (including claims and defenses)
25 in the contested case. The motion, accompanied by any affidavits or other
26 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:





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

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

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

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

12 (9) A party or the agency may satisfy the burden of producing evidence
13 through affidavits. Affidavits shall be made on personal knowledge,
14 establish that the affiant is competent to testify to the matters stated therein
15 and contain facts that would be admissible at the hearing.

16 (10) When a motion for summary determination is made and supported as
17 provided in this rule, a non-moving party or non-moving agency may not
18 rest upon the mere allegations or denials contained in that party's or
19 agency's notice or answer, if any. When a motion for summary
20 determination is made and supported as provided in this rule, the
21 administrative law judge or the agency must explain the requirements for
22 filing a response to any unrepresented party or parties.

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

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

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

DOCUMENTS REVIEWED

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

1 **FINDINGS OF FACT**

2 1. Licensee has had an insurance producer license with the Division since
3 April 14, 2003. Her license is active and is set to expire on July 31, 2017. (Ex. C at 1).

4 2. On January 14, 2015, Licensee pled guilty in US District Court to
5 Misprision of Felony, a violation of federal law. (Ex. D at 2). Licensee was indicted on
6 February 13, 2013, and her first court appearance on the case was on February 19, 2013.
7 (*Id.* at 30).

8 3. Upon Licensee’s guilty plea, Judge Mosman requested a sentencing
9 memorandum from the US Attorney’s office. That memorandum described Licensee’s
10 involvement in a drug trafficking organization (DTO):

11 The defendant’s role within the DTO was to register, insure and assist
12 with vehicles used by members of the DTO to transport drugs and drug
13 proceeds. While the defendant’s involvement did not involve the direct
14 transportation of drugs, her activities of placing vehicles in her name,
15 registering vehicles to her address and ensuring that members of the DTO
16 had valid insurance in case they were stopped by the police directly
17 allowed others to do so with a lesser chance of getting caught. The lead
18 defendant in the investigation had three vehicles registered in his name,
19 yet [they] were registered to the defendant’s address in Troutdale, Oregon.
20 The defendant had approximately 10 vehicles with Oregon plates
21 registered in her name and listing her residence on the registration. Law
22 enforcement officers observed that five of those vehicles were regularly
23 used by members of the DTO in their unlawful activities.

24 (Ex. D at 42-43). Her nicknames among the DTO members was “Prima” or “Muchacha.”
25 (*Id.* at 35). On July 6, 2015, the court entered judgment against Licensee and she was
26 sentenced to five years of probation. (*Id.* at 47).

1 4. On July 13, 2015, after Licensee had been sentenced to probation by Judge
2 Mosman, Licensee’s attorney contacted the Division to inform the Division of her
3 conviction. (Ex. B at 2). This was the Division’s first knowledge of Licensee’s criminal
4 charges. (*Id.* at 3). Because Licensee was convicted of a felony, Division staff provided
5 the attorney with a Form 1033 Felony Waiver form for Licensee to fill out. The Division
6 refused to waive the disqualification caused by the felony conviction. (*Id.* at 7).

7 5. The Division issued its notice of proposed revocation to Licensee on May
8 24, 2016. (Ex. A). On August 17, 2016, the Division issued an Amended Order to Cease
9 and Desist, Notice of Proposed Revocation to Licensee. (Ex. E).

10 **CONCLUSIONS OF LAW**

11 1. There are no remaining material questions of fact about the Division’s
12 allegations:

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a. Licensee failed to report a criminal prosecution against her within 30 days of the initial pretrial hearing; and

b. Licensee was convicted of a felony.

2. The Division is entitled to revoke Licensee’s license for violation of ORS 744.089(2) and/or ORS 744.074(1)(f).

OPINION OF ALJ BARBER

The Division contends that Licensee’s producer license should be revoked because she failed to report a criminal prosecution to the Director and because she was convicted of a felony.

ALJ Barber agrees with the Division.

The legal standards in the case are clear. A licensee may be disciplined for violating any insurance statute or rule. ORS 744.074 states in part:

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

* * * * *

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

* * * * *

(f) *Having been convicted of a felony, of a misdemeanor involving dishonesty or breach of trust, or of an offense punishable by death or imprisonment under the laws of the United States. The record of the conviction shall be conclusive evidence of the conviction.*

(Emphasis added). Furthermore, ORS 744.089 states in part:

744.089 Report of administrative action taken against insurance producer. * * *

(2) *Not later than the 30th day after the initial pretrial hearing date, an insurance producer shall report to the director any criminal prosecution of the insurance producer taken in any jurisdiction. The report shall*

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1 include a copy of the initial complaint filed, the order resulting from the
2 hearing and any other relevant legal documents.

3 (Emphasis added).

4 Pursuant to these statutes, an insurance producer license may be revoked when the
5 producer violates any insurance laws or rules, and when convicted of a felony. Licensee
6 here has been convicted of a felony, and also violated ORS 744.089 by failing to report
7 her criminal prosecution to the director.³ Therefore, there are no remaining facts to be
8 determined and the Division is entitled to revoke Licensee's producer license as a matter
9 of law.

10 The hearing currently set for October 18, 2016, is canceled.

11 ORDER

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

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

16 2. In accordance with ORS 744.074(1) the Director REVOKES Licensee's
17 resident insurance producer license for (1) failing to timely report a criminal prosecution
18 against her within 30 days of the initial pretrial hearing; and (2) having been convicted of
19 a felony.

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

23 SO ORDERED this 7th day of November, 2016.

24 PATRICK M. ALLEN, Director
25 Department of Consumer and Business Services

26 /s/ David Tatman
David Tatman, Chief of Enforcement
Division of Financial Regulation

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³ Although the Division's motion indicates that Licensee should have reported the criminal prosecution no later than February 13, 2015, 30 days after her plea bargain, ALJ Barber's reading of the statute requires her to have reported it within 30 days of February 19, 2013, the date she had her first appearance in court. (See, Ex. D at 30). Under either scenario, Licensee's report through her attorney in July 2015 violated the statute.



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NOTICE OF RIGHT TO JUDICIAL APPEAL

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

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