

1 STATE OF OREGON  
2 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
3 DIVISION OF FINANCIAL REGULATION

4 In the Matter of

Case No. INS-22-0055

5 AMERICAS INSURANCE COMPANY,

FINAL ORDER TO CEASE AND  
DESIST, FINAL ORDER REVOKING  
CERTIFICATE OF AUTHORITY, AND  
FINAL ORDER ASSESSING CIVIL  
PENALTIES, ENTERED BY DEFAULT

6 Respondent.  
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9 On June 23, 2022, the Division of Financial Regulation (the “Division”), acting on  
10 behalf of the Director of the Department of Consumer and Business Services for the State  
11 of Oregon (the “Director”), served Notice of Administrative Order INS-22-0055 (“Notice”)  
12 on Americas Insurance Company (“Respondent”). The Notice provided notice that the  
13 Director issued an order to cease and desist, proposed order revoking certificate of  
14 authority, and proposed order assessing civil penalties for violations of provisions of  
15 Oregon Revised Statutes (“ORS”) chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A,  
16 744, 746, 748 and 750 (“Insurance Code”) and the Oregon Administrative Rules (“OAR”)  
17 promulgated under those laws.

18 The Notice offered Respondent an opportunity for hearing if requested within 20  
19 days of service of the Notice. The Notice further informed Respondent that if a hearing  
20 were not conducted because Respondent did not timely request a hearing or otherwise  
21 defaulted, then the designated portion of the Division’s file and all materials submitted by  
22 Respondent in this case would automatically become part of the contested case record for  
23 the purpose of proving a prima facie case.

24 The Director did not receive from Respondent a request for hearing and did not  
25 conduct a hearing.

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

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350 Winter Street NE, Suite 410  
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1 Now, therefore, after considering the relevant portions of the Division’s file relating  
2 to this matter, the Director finds and orders as follows.

3 **FINDINGS OF FACT**

4 The Director FINDS that:

5 1. Respondent first received its certificate of authority as a foreign property,  
6 casualty, and marine and transportation insurer in Oregon on May 25, 1994. Respondent’s  
7 National Association of Insurance Commissioners Company Code (“NAIC CoCode”) is  
8 27898.

9 2. On April 15, 2022, the Division sent a letter to three of Respondent’s contact  
10 persons: Jason Castay, who filed Respondent’s tax return the prior year; Christine Martin,  
11 who was the officer who certified Respondent’s tax return the prior year; and Junghuyn  
12 Yuh, who is listed as Respondent’s contact person for taxes and assessments. The Division  
13 informed those individuals that Respondent failed to file its required insurance tax return  
14 in Oregon for the year 2021. The Division requested that Respondent complete the return  
15 within 14 days of that letter, and stated that failure to do so may result in civil penalties or  
16 suspension or revocation of Respondent’s certificate of authority. The letter further  
17 contained step-by-step instructions regarding how to file the return.

18 3. On April 22, 2022, the Division forwarded the same letter to another person,  
19 Susan Schnupp, who was listed as another of Respondent’s contacts for taxes and  
20 assessments. Having still received no response, the Division located yet another email  
21 address for Schnupp and provided a copy of the same letter to her at that second email  
22 address on May 4, 2022.

23 4. Respondents never provided a substantive reply to any of the foregoing  
24 correspondence from the Division and never filed the required Oregon tax return for the  
25 year 2021.

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1 **CONCLUSIONS OF LAW**

2 The Director CONCLUDES that:

3 5. ORS 731.854(1) imposes a retaliatory tax on foreign insurers and requires any  
4 such insurer to pay the difference, if any, between the taxes, fees, and other charges that an  
5 Oregon insurer would pay in that insurer’s domicile state and the amount of taxes, fees,  
6 and other charges that the insurer paid in Oregon. Specifically, ORS 731.854(1) provides:  
7 When by or pursuant to the laws of any other state or foreign country any taxes, licenses  
8 and other fees, in the aggregate, and any fines, penalties, deposit requirements or other  
9 material obligations, prohibitions or restrictions are or would be imposed upon insurers  
10 domiciled in this state, or upon the insurance producers or representatives of such insurers,  
11 which are in excess of such taxes, licenses and other fees, in the aggregate, or which are in  
12 excess of the fines, penalties, deposit requirements or other obligations, prohibitions, or  
13 restrictions directly imposed upon similar insurers, or upon the insurance producers or  
14 representatives of such insurers, of such other state or country under the statutes of this  
15 state, so long as such laws of such other state or country continue in force or are so applied,  
16 the same taxes, licenses and other fees, in the aggregate, or fines, penalties or deposit  
17 requirements or other material obligations, prohibitions, or restrictions of whatever kind  
18 shall be imposed by the Director of the Department of Consumer and Business Services  
19 upon the insurers, or upon the insurance producers or representatives of such insurers, of  
20 such other state or country doing business or seeking to do business in this state.

21 6. Under ORS 731.859(1), on or before April 1 of each year, each foreign or alien  
22 insurer shall:

- 23 (a) Determine and report to the Director whether the provisions of the laws of any  
24 state or country require the imposition of the burdens specified by ORS 731.854;  
25 (b) Compute the amount owing under ORS 731.854; and  
26 (c) Pay to the director that amount.

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1           7. Under OAR 836-006-0010(1), an insurer shall pay to the Director on April 1 of  
2 each year the amount of retaliatory tax due and payable under ORS 731.854, on the basis  
3 of the corporate excise tax obligation of the insurer that is owed or is estimated to be owed  
4 by the insurer for the preceding year ending December 31.

5           8. By failing to determine and report to the Director the amount of retaliatory tax  
6 due for the prior year by April 1, 2022, Respondent violated ORS 731.859(1) and OAR  
7 836-006-0010(1).

8           9. Under ORS 731.296, the Director may address any proper inquiries to any  
9 insurer, licensee or its officers in relation to its activities or condition or any other matter  
10 connected with its transactions. Any such person so addressed shall promptly and truthfully  
11 reply to such inquiries using the form of communication requested by the Director.

12          10. By failing to provide any response to the Division's April 15, April 22, or May  
13 4, letters, Respondent violated ORS 731.296.

14          11. Under ORS 731.418(1)(a), the Director may refuse to continue or may suspend  
15 or revoke an insurer's certificate of authority if the Director finds after a hearing that the  
16 insurer has violated or failed to comply with any lawful order of the Director, or any  
17 provision of the Insurance Code.

18          12. Because Respondent has failed to comply with provisions of the Insurance  
19 Code, including ORS 731.859(1), ORS 731.296, and OAR 836-006-0010(1), the Director  
20 may revoke Respondent's certificate of authority after a hearing under ORS 731.418(1)(a).

21          13. Under ORS 731.252(1), whenever the Director has reason to believe that any  
22 person has been engaged or is engaging or is about to engage in any violation of the  
23 Insurance Code, the Director may issue an order, directed to such person, to discontinue or  
24 desist from such violation or threatened violation.

25          14. Because the Director has reason to believe that Respondent has violated ORS  
26 731.859(1), ORS 731.296, and OAR 836-006-0010(1), the Director may issue an order

1 directed to Respondent to discontinue or desist from that violation under ORS 731.252(1).

2 15. Under ORS 731.988(1), a person that violates any provision of the Insurance  
3 Code shall forfeit and pay to the General Fund of the State Treasury a civil penalty in an  
4 amount determined by the director that does not exceed \$10,000 for each offense. Each  
5 violation is a separate offense.

6 16. Because Respondent violated the Insurance Code, including ORS 731.859(1),  
7 ORS 731.296, and OAR 836-006-0010(1), Respondent is subject to civil penalties under  
8 ORS 731.988(1).

9 **ORDERS**

10 The Director issues the following ORDERS:

11 Order to Cease and Desist

12 17. Pursuant to the authority of ORS 731.252(1), the Director hereby orders  
13 Respondent to CEASE AND DESIST from violating ORS 731.859(1) and OAR 836-006-  
14 0010(1).

15 Order Revoking Certificate of Authority

16 18. Pursuant to ORS 731.418(1)(a), the Director hereby REVOKES Respondent's  
17 certificate of authority.

18 Order Assessing Civil Penalties

19 19. Pursuant to ORS 731.988(1), the Director hereby ORDERS the assessment of  
20 CIVIL PENALTIES against Respondent in the amount of \$10,000 for violating ORS  
21 731.859(1) and OAR 836-006-0010(1).

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**FINAL ORDER**

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

IT IS SO ORDERED.

Dated this 11th day of August, 2022.

ANDREW R. STOLFI, Director  
Department of Consumer and Business Services

/s/Dorothy Bean  
Dorothy Bean, Chief of Enforcement  
Division of Financial Regulation

**NOTICE OF RIGHT TO JUDICIAL APPEAL**

Judicial review of final orders in contested cases is governed by ORS 183.482. Respondents 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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