STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of: DAISY J. AMERSON, *an individual,* Respondent.	Case No. INS-23-0073 ORDER TO CEASE AND DESIST, AND ORDERS REVOKING LICENSE AND ASSESSING CIVIL PENALTIES, ENTERED BY DEFAULT

On May 6, 2024, the Director of the Department of Consumer and Business Services for the State of Oregon ("Director"), acting by and through the Oregon Division of Financial Regulation ("Division") and in accordance with Oregon Revised Statutes ("ORS") 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750 ("Insurance Code"), served an Order to Cease and Desist, Proposed Order Revoking License and Assessing Civil Penalties, and Notice or Right to an Administrative Hearing ("Notice") on Daisy J. Amerson ("Amerson").

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

Amerson did not submit a request for hearing to the Director, and the Director 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 Division's file relating to this matter, the Director finds and orders as follows.

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FINDINGS OF FACT

The Director FINDS that:

1. Amerson is an Oregon resident insurance producer. Her National Producer Number is 17686943. Her last known business address is 1405 NE Lafayette Ave, Suite A McMinnville, Oregon 97128-4036.

2. From 2015 until August 1, 2021, Amerson worked with Chris Browne Insurance in McMinnville ("CBI"). During this time, Amerson was an independent contractor whose compensation from CBI was accounted for on an IRS Form 1099.

3. In April of 2021, Chris Browne ("Browne")—the owner of CBI—began putting out feelers to sell CBI. Browne received several offers, including one from Amerson. Browne ultimately did not accept Amerson's offer. However, during the time when a sale of CBI to Amerson was under consideration by Browne, Amerson had access to CBI's profit and loss statements and carrier commission numbers.

4. On August 1, 2021, CBI was acquired by Wix McMinnville LLC ("Wix"). As one of the terms of the sale, CBI required Wix to hire Amerson as a W2 employee.

5. Amerson signed an employment agreement with Wix on August 10, 2021. Pursuant to the agreement, Wix offered to pay Amerson a salary of $5,000 per month and an incentive of 2.5% of first year commissions. In addition, the employment agreement gave Amerson an option to purchase CBI/Wix's Commercial Small Group and Under 65 Individual/Family book of business at a set price. Finally, the employment agreement required Wix to pay Amerson $60,000 in severance if Wix were to terminate Amerson's employment within the 24 months following execution of the agreement, unless the termination was for cause.

The UHC Commissions

6. On September 15, 2021, one of the co-owners of Wix, hereinafter referred to as KM, directed Amerson to terminate her existing contract with UnitedHealthCare ("UHC")

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and instead contract as an agent of Wix, assigning her commissions to Wix. KM provided Amerson with a form to fill out for this purpose.

7. On September 16, 2021, Amerson signed and returned the form requesting that UHC stop her current contract. However, Amerson did not assign her commissions to Wix.

8. On September 27, 2021, Amerson submitted an application to UHC for appointment as an individual agent. For purposes of commissions, Amerson provided her personal bank account information.

9. Between January 14, 2022 and November 25, 2022, UHC deposited commissions in Amerson's personal bank account totaling $18,312.

10. On or about December 17, 2022, Amerson's direct supervisor at Wix, hereinafter referred to as JM, became aware that Wix was not receiving its anticipated commissions from UHC. JM contacted UHC and was advised that the commissions were being sent directly to Amerson.

11. On December 18, 2022, JM and another of the co-owners of Wix, hereinafter referred to as SM, confronted Amerson about the missing UHC commissions. Amerson denied that she had any knowledge about the situation and denied receiving the UHC commissions. Amerson did, however, agree to provide JM and SM with copies of her bank statements going back to the beginning of 2022.

12. On December 19, 2022, JM and SM met again with Amerson. At that meeting, Amerson gave JM and SM a cashier's check for $17,000. Amerson stated to the Division investigator that this check was intended to "make things right."

13. By the time of the December 19, 2022 meeting, JM and SM had reviewed Amerson's bank statements and concluded that Amerson was improperly receiving more than just the UHC commissions. Following the December 19, 2022 meeting, Wix placed Amerson on paid administrative leave while they determined the scope of the problem.

14. Wix completed its review during the first week of February 2023. On February 16,

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2023 Wix terminated Amerson for cause and provided notice to the Division.

Amerson's Other Commission Arrangements

15. On July 12, 2021—before the sale of CBI to Wix was final—Amerson logged into Humana's online portal and indicated that Humana should direct commissions for CBI to her own personal bank account. Amerson did not change this information after Wix acquired CBI and hired Amerson. Between September of 2021 and November of 2022, Humana deposited commissions totaling $1,652.17 into Amerson's bank account.

16. On August 26, 2021—after the sale of CBI to Wix—Amerson logged into AETNA's online portal and indicated that AETNA should direct commissions for Wix/CBI to her own personal bank account. Between September of 2021 and November of 2022, AETNA deposited commissions totaling $4,746.36 into Amerson's bank account.

17. On September 15, 2021, Amerson completed and submitted a Mutual of Omaha Contract Information and Signature form which instructed Mutual of Omaha to deposit commissions for Wix/CBI into Amerson's personal bank account. Between September of 2021 and November of 2022, Mutual of Omaha deposited commissions totaling $6,281.27 into Amerson's bank account.

18. On April 13, 2022, Amerson completed and submitted to PacificSource a 2022 Medicare Advantage enrollment form for an Oregon consumer who will be identified for purposes of this Order as RN. Amerson listed herself on the enrollment form as the Producer. On June 5, 2022, PacificSource issued a commission check to Amerson in the amount of $573. Amerson endorsed the check and deposited it in her personal bank account on June 15, 2022.

Forged Providence Release

19. On September 8, 2021, Amerson submitted a document to Providence purporting to be a letter from Browne, the owner of CBI ("the Providence Letter"). The Providence Letter was, in substance, a release requesting that Amerson's book of business with

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Providence be released from CBI, with the result that Amerson would receive commissions for Providence policies that she sold, rather than CBI/Wix.

20. The Providence Letter purported to be wet-ink signed by Browne. However, Browne denied knowledge of the letter and denied having signed the letter. Moreover, the signature on the Providence Letter that purports to belong to Browne does not match Browne's signature.

21. When Amerson was asked about the letter by the Division's investigator, Amerson also denied knowledge of the Providence Letter, but admitted that she "may have" signed the letter.

22. On knowledge and belief, Amerson wrote the Providence Letter and forged Browne's signature in an effort to re-route Providence commissions that otherwise would have gone to CBI/Wix for her own personal use.

Prosecution for Aggravated Theft

23. On March 30, 2023, Amerson was charged in Yamhill County Circuit Court with one count of Aggravated Theft in the first degree, a felony. Amerson was arraigned on April 5, 2023.

24. Amerson did not notify the Division of this criminal prosecution.

CONCLUSIONS OF LAW

The Director CONCLUDES the following:

Misappropriation of Premiums

25. ORS 744.074(1)(d) forbids any person from "[i]mproperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business."

26. Amerson violated ORS 744.074(1)(d) in five instances as follows:

(a) By directing $18,312 in commissions for UHC transactions from CBI/Wix to her own personal bank account;

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(b) By directing $1,652.17 in commissions for Humana transactions from CBI/Wix to her own personal bank account;

(c) By directing $$4,746.36 in commissions for AETNA transactions from CBI/Wix to her own personal bank account;

(d) By directing $6,281.27 in commissions for Mutual of Omaha transactions from CBI/Wix to her own personal bank account; and

(e) By endorsing and depositing a commission check from PacificSource for $573 into her own personal bank account.

Dishonest Practices

27. ORS 744.074(1)(h) forbids any person from "[u]sing fraudulent, coercive or dishonest practices * * * in the conduct of business.

28. Amerson violated ORS 744.074(1)(h) in seven instances as follows:

(a) By seeking appointment from UHC as an individual agent at a time when she had already accepted employment with CBI/Wix;

(b) By failing to assign her UHC commissions to CBI/Wix when she was instructed to do so by her employer;

(c) By directing that Humana deposit commissions owed to CBI/Wix in her personal bank account rather than remitting commissions to CBI/Wix;

(d) By directing that AETNA deposit commissions owed to CBI/Wix in her own personal bank account, rather than remitting commissions to CBI/Wix;

(e) By directing that Mutual of Omaha deposit commissions owed to CBI/Wix in her own personal bank account, rather than remitting commissions to CBI/Wix;

(f) By endorsing and depositing a commission check from PacificSource in her own personal bank account, rather than remitting the commission check to CBI/Wix; and

(g) By composing the Providence Letter and forging Browne's signature on the Providence Letter.

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Forgery

29. ORS 744.074(1)(k) forbids any person from "[f]orging another person's name * * * to any document related to an insurance transaction."

30. Amerson violated ORS 744.074(1)(k) by forging Browne's signature on the Providence Letter.

Failure to Notify Division of Criminal Prosecution

31. ORS 744.089(2) requires any insurance producer to report to the Division "any criminal prosecution of the insurance producer taken in any jurisdiction." This report is required within 30 days of "the initial pretrial hearing date."

32. Amerson violated ORS 744.089(2) by failing to notify the Division of her criminal prosecution described above in Paragraph 23.

License Revocation Authority

33. Under ORS 744.074(1)(d), the Director may "place a licensee on probation or suspend, revoke or refuse to issue or renew an insurance producer license" if that person improperly withholds, misappropriates, or converts "any moneys or properties received in the course of doing insurance business."

34. Amerson misappropriated commission payments from UHC, Humana, AETNA, Mutual of Omaha, and PacificSource, as described above in Paragraphs 25-26, thereby authorizing the Director to revoke Amerson's insurance producer license under ORS 744.074(1)(d).

35. Under to ORS 744.074(1)(h) the Director may "place a licensee on probation or suspend, revoke or refuse to issue or renew an insurance producer license" if that person uses "fraudulent, coercive or dishonest practices * * * in the conduct of business."

36. Amerson engaged in "fraudulent, coercive or dishonest practices" as described above in Paragraphs 27-28, thereby authorizing the Director to revoke Amerson's insurance producer license under ORS 744.074(1)(h).

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37. Under ORS 744.074(1)(k), the Director may "place a licensee on probation or suspend, revoke or refuse to issue or renew an insurance producer license" if that person forges another person's name "to any document related to an insurance transaction."

38. Amerson forged Browne's name to the Providence Letter—a document related to premiums arising from insurance transactions—as described above in Paragraphs 29-30, thereby authorizing the Director to revoke Amerson's insurance producer license under ORS 744.074(1)(k).

Cease and Desist Authority

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

Civil Penalties Authority

40. Pursuant to ORS 731.988(1), the Director may assess civil penalties in the amount of $1,000 per violation against any person who violates the Insurance Code.

ORDERS

Now therefore, the Director issues the following Orders:

Cease and Desist

41. As authorized by ORS 731.252(1), the Director ORDERS Amerson to CEASE AND DESIST from violating any provision of the Insurance Code or the administrative rules promulgated thereunder, including but not limited to engaging in any further fraudulent conduct described in this Order.

License Revocation

42. As authorized by ORS 744.074(1)(d), (h), and (k), the Director hereby REVOKES Amerson's Oregon resident insurance producer license.

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Civil Penalties

43. As authorized by ORS 731.988(1), the Director hereby assesses CIVIL PENALTIES against Amerson in the amount of $14,000 as follows:

(a) $5,000 for violating ORS 744.074(1)(d) in five instances, as described in Paragraphs 25-26 above;

(b) $7,000 for violating ORS 744.074(1)(h) in seven instances, as described in Paragraphs 27-28 above;

(c) $1,000 for violating ORS 744.074(1)(k) in one instances, as described in Paragraphs 29-30 above.

(d) $1,000 for violating ORS 744.089(2) in one instance, as described in Paragraph 31-32 above.

FINAL ORDER

44. 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.

SO ORDERED this 4th day of June, 2024.

Andrew R. Stolfi, Director
Department of Consumer and Business Services

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

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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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