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

In the Matter of CLEARCOVER INSURANCE COMPANY, Respondent.	Case No. INS-22-0054 FINAL ORDER TO CEASE AND DESIST, FINAL ORDER ASSESSING CIVIL PENALTIES, AND CONSENT TO ENTRY OF ORDER

The Division of Financial Regulation (the "Division"), acting on behalf of the Director of the Department of Consumer and Business Services for the State of Oregon (the "Director"), conducted an investigation of Clearcover Insurance Company ("Respondent"). The Division determined that Respondent violated provisions of Oregon Revised Statutes ("ORS") chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 744, 746, 748 and 750 ("Insurance Code") and the Oregon Administrative Rules ("OAR") promulgated under those laws.

Respondent submits to the Director's jurisdiction and agrees to waive its rights to notice and an administrative hearing under ORS 183.415 and wishes to resolve this matter by consenting to entry of this Consent Order.

Now, therefore, as evidenced by the authorized signatures subscribed herein, the Director issues the following Findings of Fact, Conclusions of Law, Final Orders, and Consent to Entry of Order.

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

FINDINGS OF FACT

The Director FINDS that:

1. Respondent first received its certificate of authority as a foreign property and casualty insurer in Oregon on June 9, 2021. Respondent's National Association of Insurance Commissioners Company Code ("NAIC CoCode") is 16524.

2. On April 18, 2022, the Division sent a letter Nancy Stepanski, who at that time was the person Respondent had designated as its contact person on NAIC, to inform her that Respondent failed to file its required insurance tax return in Oregon for the year 2021. The Division requested that Respondent complete the return within 14 days of that letter, and stated that failure to do so may result in civil penalties or suspension or revocation of Respondent's certificate of authority. The letter further contained step-by-step instructions regarding how to file the return.

3. On April 19, 2022, Stepanski replied to the Division and stated that she would forward the Division's request to the company and also indicated that the new contact person for Respondent is Michael Mancusi-Ungaro. Stepanski copied Mancusi-Ungaro on that communication. Stepanski also requested that the Division update NAIC to identify Mancusi-Ungaro as the company's contact person, which the Division did that same day.

4. On May 4, 2022, having received no further response from the Respondent, the Division sent another request to Respondent, this time directed to Mancusi-Ungaro, to inform him that Respondent still failed to file its required insurance tax return in Oregon. The Division requested that Respondent complete the return by June 4, 2022, and stated that failure to do so may result in civil penalties or suspension or revocation of Respondent's certificate of authority. The letter again contained step-by-step instructions regarding how to file the return.

5. On June 23, 2022, having received no response from Respondent, the Division issued a notice order against Respondent due to its failure to respond to the Division's May 4 letter and to file the required Oregon tax return for the year 2021.

6. On July 7, 2022, Respondent electronically filed its tax return for the year 2021 and mailed the appropriate fee to the Division. The Division received the fee on July 18, 2022.

///

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

CONCLUSIONS OF LAW

The Director CONCLUDES that:

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

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

(a) Determine and report to the Director whether the provisions of the laws of any state or country require the imposition of the burdens specified by ORS 731.854;

(b) Compute the amount owing under ORS 731.854; and

(c) Pay to the Director that amount.

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

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

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

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

12. By failing to provide any substantive response to the Division's April 18 letter, and by failing to provide any response at all to the Division's May 4 letter prior to the issuance of the notice order, Respondent violated ORS 731.296.

13. Under 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, directed to such person, to discontinue or desist from such violation or threatened violation.

14. Because the Director has reason to believe that Respondent has violated ORS 731.859(1), ORS 731.296, and OAR 836-006-0010(1), the Director may issue an order directed to Respondent to discontinue or desist from that violation under ORS 731.252(1).

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

16. Because Respondent violated the Insurance Code, including ORS 731.859(1),

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

ORS 731.296, and OAR 836-006-0010(1), Respondent is subject to civil penalties under ORS 731.988(1).

FINAL ORDERS

The Director issues the following ORDERS:

Order to Cease and Desist

17. Pursuant to the authority of ORS 731.252(1), the Director hereby orders Respondent to CEASE AND DESIST from violating ORS 731.859(1), ORS 731.296, and OAR 836-006-0010(1).

Order Assessing Civil Penalties

18. Pursuant to ORS 731.988(1), the Director hereby ORDERS the assessment of CIVIL PENALTIES against Respondent in the amount of $10,000 for violating ORS 731.859(1), ORS 731.296, and OAR 836-006-0010(1).

19. The Director SUSPENDS collection of nine thousand dollars ($9,000) of the foregoing civil penalties, provided Respondent submits simultaneously with this executed Consent Order the remaining one thousand dollars ($1,000) of civil penalties and Respondent complies with all terms of this Consent Order and the Insurance Code.

20. The Director agrees to waive the foregoing suspended nine thousand dollars ($9,000) of civil penalties at the end of a period of three (3) years from the effective date of this Consent Order provided that Respondent complies with the Insurance Code and the terms and conditions of this Consent Order.

21. If Respondent fails to comply with this Consent Order or otherwise fails to comply with the Insurance Code within the period of three (3) years, then the suspended portion of the civil penalties shall become immediately due and payable and the Division may take additional action against Respondent for violations of this Consent Order.

NONDISCHARGEABILITY

22. Respondent agrees the facts and violations set forth in this Order may be taken

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

as true without further proof in any bankruptcy case or subsequent civil litigation the Director may pursue to enforce its rights to any payment or money judgment under the terms of this Order, including but not limited to any nondischargeablity complaint in any bankruptcy proceeding and that this Order shall have collateral estoppel effect in any bankruptcy case.

FINAL ORDER

23. This Order is a "Final Order" under ORS 183.310(6)(b). Subject to that provision, entry of this Order in no way limits or prevents further remedies, sanctions, or actions which may be available to the Director under Oregon law to enforce this Order, for violations of this Order, for conduct or actions of Respondent that are not covered by this Order, or against any party not covered by this Order.

IT IS SO ORDERED.

Dated this 25th 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

[The remainder of this page intentionally left blank.]

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

CONSENT TO ENTRY OF ORDER

I, Vandana Venkat, state that I hold the title of President and I am an authorized representative of Respondent Clearcover Insurance Company with the authority to sign this Consent Order on behalf of Respondent. I have read the Order and I fully understand the contents hereof. I have been advised of the right to a hearing and of the right to be represented by counsel in this matter, and I have been represented by counsel. Respondent voluntarily consents to the entry of this Order without any force or duress, expressly waiving any right to a hearing in this matter, as well as any rights to administrative or judicial review of this order. Respondent understands that this is a "Final Order" under ORS 183.310(6)(b). Respondent understands that the Director reserves the right to take further action to enforce this Order or to take appropriate action upon discovery that Respondent has committed other violations of the Insurance Code. Respondent will fully comply with the terms and conditions stated herein.

Respondent understands that this Order is a public document.

Signature: /s/ Vandana Venkat

Title: President

State of Illinois

County of Cook

Signed or attested before me on this 12th day of August, 2022 by Gina Troy.

/s/ Gina Troy

Notary Public

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