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

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| In the Matter of<br><br>CODY GIUSTO,<br><br>Respondent. | Case No. INS-21-0060<br><br>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 Cody Giusto ("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 his 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 signature(s) subscribed herein, the Director issues the following Findings of Fact, Conclusions of Law, and Final Orders.

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Salem, OR 97301-3881
Telephone: (503) 378-4387

## FINDINGS OF FACT

The Director FINDS that:

1. Respondent first became licensed in Oregon as a resident insurance producer on March 17, 2008. Respondent's National Association of Insurance Commissioners national producer number is 9957372.

2. On or about August 28, 2015, an Oregon consumer identified herein as KG obtained an auto insurance policy for which Respondent served as her insurance agent.

That policy renewed semi-annually.

3. On or about July 13, 2017, Respondent submitted a Request to Rerate Based on an Updated Credit-Based Insurance Score form (a "Facet" form) to the insurer on behalf of KG. As a result, KG's policy renewed for another two-year period.

4. On or about March 9, 2021, Respondent submitted another Facet form to the insurer on behalf of KG. KG's policy again renewed for two more years.

5. Both of the foregoing Facet forms contained a signature purportedly authored by KG.

6. On June 22, 2021, the Division received a complaint from KG in which she indicated that the signatures on the two foregoing Facet forms were not hers but were in fact forgeries.

7. On June 23, 2021, the Division sent a letter to Respondent along with a copy of KG's complaint and asked Respondent for a response.

8. On June 29, 2021, Respondent responded to the Division. Respondent stated that his employees generally complete the Facet forms and suggested that a former employee had completed those forms on behalf of KG. Respondent wrote in part: "In my office I have my employees reviewing upcoming renewals and actively try to communicate any premium changes. Part of that practice is to view and see if a facet form would be an appropriate option….This task is done by my employees and for the dates on both documents brought to my attention that employee is no longer with my office. If the documents were forged it is not something that I condone in my office and not a practice[] we use."

9. On or about July 15, 2021, the insurer interviewed Respondent to inquire about the complaint that KG filed with the Division. As part of that process, Respondent wrote a statement for the insurer. In that statement, Respondent wrote: "I did not sign the forms that [KG] alleges I signed. While I do not know who signed the forms, my staff takes care

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of this process." He added: "I am not aware of any…forgery within my office. I do not sign documents for customers and that is not a practice within my agency."

10. On July 20, 2021, the Division asked Respondent which of his employees had forged KG's signature on the Facet forms. That same day Respondent provided the name and license number of a former employee.

11. Following a review of Respondent's employee records, the Division learned that the former employee who Respondent claimed had forged the signatures did not work for him in 2017 at the time the first Facet form was filed. That employee also denied signing KG's name to the second Facet form in 2021.

12. On October 13, 2021, after a Division Investigator confronted Respondent with this information, Respondent admitted in an email to having forged both of KG's signatures. Respondent wrote in part: "So after reviewing the 2 documents closer it does appear that they were signed by myself." Respondent indicated he forged both signatures because he was "in a hurry to see about saving the client premium" and he was in a "time crunch."

## CONCLUSIONS OF LAW

The Director CONCLUDES that:

13. 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 and may take other actions authorized by the Insurance Code in lieu thereof or in addition thereto, for forging another person's name to an application for insurance or to any document related to an insurance transaction.

14. Because Respondent forged KG's signature on two Facet forms, Respondent violated ORS 744.074(1)(k) and therefore is subject to license suspension or revocation and any other actions authorized by the Insurance Code.

15. Under ORS 731.296, the Director may address any proper inquiries to any

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licensee 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. A reply is subject to the provisions of ORS 731.260.

16. Under ORS 731.260, no person shall file or cause to be filed with the Director any article, certificate, report, statement, application or any other information required or permitted to be so filed under the Insurance Code and known to such person to be false or misleading in any material respect.

17. By initially providing false information to the Division in response to inquiries regarding the signing of KG's name on two Facet forms until confronted with information demonstrating his untruthfulness, Respondent violated ORS 731.260.

18. 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. The civil penalty for individual insurance producers, adjusters, or insurance consultants may not exceed $1,000 for each offense. Each violation is a separate offense.

19. Because Respondent violated ORS 744.0749(1)(k) on two occasions and ORS 731.260, Respondent is subject to a civil penalty of each violation of those statutes under ORS 731.988(1).

20. 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.

21. Because the Director has reason to believe that Respondent has violated ORS 744.074(1)(k) and ORS 731.260, the Director may issue an order directed to Respondent to discontinue or desist from those violation under ORS 731.252(1).

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## ORDERS

The Director issues the following ORDERS:

*Order to Cease and Desist*

22. Pursuant to the authority of ORS 731.252(1), the Director hereby orders Respondent to CEASE AND DESIST from violating ORS 744.074(1)(k) and ORS 731.260.

*Order Assessing Civil Penalties*

23. Pursuant to ORS 731.988(1), the Director hereby ORDERS the assessment of CIVIL PENALTIES against Respondent in the amount of $3,000 for violations of ORS 744.074(1)(k) and ORS 731.260.

24. The Director SUSPENDS collection of the $1,500 of the foregoing civil penalties, provided Respondent submits simultaneously with this executed Consent Order the remaining $1,500 of civil penalties and that Respondent complies with all other terms of this Consent Order and the Insurance Code.

25. The Director agrees to waive the foregoing suspended $1,500 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 all other terms of this Consent Order. If Respondent fails to comply with the terms of this Consent Order or otherwise violates 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.

## NONDISCHARGEABILITY

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

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bankruptcy proceeding and that this Order shall have collateral estoppel effect in any bankruptcy case.

**FINAL ORDER**

27. 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 __2nd__ day of ____June_____, 2022.

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

__/s/_Dorothy Bean___
Dorothy Bean, Chief of Enforcement
Division of Financial Regulation

*[Remainder of this page intentionally left blank]*

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## CONSENT TO ENTRY OF ORDER

I, Cody Giusto, have read the foregoing 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. The factual allegations stated herein are true and correct. I voluntarily consent 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. I understand that this is a "Final Order" under ORS 183.310(6)(b). I understand that the Director reserves the right to take further action to enforce this Order or to take appropriate action upon discovery that I have committed other violations of the Insurance Code. I will fully comply with the terms and conditions stated herein. I understand that this Order is a public document.

Signature: /s/ Cody Giusto

Title: Agency Owner

State of Oregon

County of Clackamas

Signed or attested before me on this 23rd day of May, 2022 by Cody Giusto.

Lisa Dianne Rogstad

Notary Public

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