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

In the Matter of DAVID J GOURLEY, (NPN#19789851) Respondent.	Case No. INS-22-0092 FINAL ORDER TO CEASE AND DESIST, REVOKING LICENSE, AND ASSESSING CIVIL PENALTIES, ENTERED BY DEFAULT

On September 1, 2022, 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") chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750 ("Insurance Code") issued and served a Notice Order against David J Gourley ("Gourley"), informing Gourley that the Director proposed to revoke the nonresident insurance producer license and asses civil penalties against Gourley for certain violations of the Insurance Code.

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

The Director did not receive from Gourley a request for a hearing and did not conduct a hearing.

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

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Now, therefore, after considering the relevant portions of the Division's file relating to this matter, the Director finds and orders as follows.

FINDINGS OF FACT

The Director FINDS that:

1. Gourley is a North Carolina resident with his last recorded address at 1121 East 36th Street, Charlotte, North Carolina 28205.

2. On October 20, 2021, the Division issued a conditional Oregon nonresident insurance producer license to Gourley. At the time, Gourley had a pending misdemeanor charge relating to the public consumption of alcohol. The Division issued the license under the condition Gourley submit documentation of the case's final disposition once it had concluded.

3. The initial prehearing date for Gourley's criminal case was January 7th, 2022. Gourley failed to provide the Division with any documentation of the case within 30 days of the initial prehearing date.

4. On April 20, 2022, after receiving no submission from Gourley, the Division gave him a written 30 day warning that if no response was provided his license would be made inactive pending Gourley's response. Gourley failed to respond.

5. On May 23, 2022, the Division gave Gourley a second written warning that his license would be revoked if he failed to submit the required documents within 30 days. Gourley failed to respond.

6. On June 29, 2022, the Division gave Gourley a final warning directing him to provide the required documentation.

7. On July 12, 2022, the Division contacted Gourley via telephone. Gourley admitted that his criminal case had concluded and agreed to provide the required documents by July 15, 2022.

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8. To this date, there has been no further response from Gourley nor documents provided.

CONCLUSIONS OF LAW

The Director CONCLUDES that

9. Under ORS 744.089(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 include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents.

10. By failing to provide the required documentation regarding his criminal case within 30 days of the initial prehearing date, Gourley violated ORS 744.089(2).

11. ORS 744.074(1)(b) authorizes the Director to place a licensee on probation or to suspend, revoke or refuse to issue or renew a license for violating any insurance laws. Gourley's violation of ORS 744.089(2) authorizes the Director to revoke Gourley's license, pursuant to ORS 744.074(1)(b).

12. 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 to discontinue or desist from such violation or threatened violation. Because the Director has reason to believe that Gourley committed the foregoing violation of ORS 744.089(2), the Director may issue an order to Gourley to cease and desist, pursuant to ORS 731.252(1).

13. ORS 731.988(1) authorizes the Director to impose civil penalties against an individual insurance producer in the amount up to $1,000 per violation for any violation of the Insurance Code, including violations of ORS 744.074 and 744.089.

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ORDERS

The Director issues the following ORDERS:

14. Pursuant to ORS 731.252(1), the Director hereby ORDERS Gourley to CEASE AND DESIST from violating ORS 744.074 and/or ORS 744.089.

15. Pursuant to ORS 744.074(1)(b), the Director hereby REVOKES Gourley's nonresident individual insurance producer license for violating ORS 744.089(2).

16. In accordance with ORS 731.988(1), the Director ORDERS that Gourley be subject to a CIVIL PENALTY of $1,000 for violating ORS 744.089(2).

FINAL ORDER

17. 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 1st day of November, 2022.

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. Respondent 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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