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

In the Matter of: DARNELL HAYES, Respondent.	Case No. INS-23-0010 FINAL ORDER TO CEASE AND DESIST AND FINAL ORDER REVOKING INSURANCE PRODUCER LICENSE, ENTERED BY DEFAULT

On May 18, 2023, 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"), served Notice of Administrative Order INS-23-0010 ("Notice") on Darnell Hayes ("Respondent"). The Notice provided notice that the Director issued an order to cease and desist and a proposed order revoking Respondent's insurance producer license for violations of 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.

The Notice offered Respondent an opportunity for hearing if requested within 20 days of service of the Notice. The Notice further informed Respondent that if a hearing were not conducted because Respondent did not timely request a hearing or otherwise defaulted, then the designated portion of the Division's file and all materials submitted by Respondent 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 Respondent a request for hearing and 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

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to this matter, the Director finds and orders as follows.

FINDINGS OF FACT

The Director FINDS that:

1. Respondent was first licensed as an Oregon non-resident individual insurance producer on September 11, 2019. Respondent's National Association of Insurance Commissioners ("NAIC") national producer number is 19165878.

2. Starting on or about January 30, 2020, Respondent was an insurance producer for Chesapeake Life Insurance Company ("Chesapeake").

3. On or about October 14, 2022, Chesapeake informed the Division that it had terminated Respondent "for cause due to suspected fraud."

4. In response to a request from the Division, Chesapeake provided documents supporting its decision to terminate Respondent for cause due to suspected fraud, including its investigative findings report dated September 26, 2022, and supporting documentation (collectively, the "Chesapeake Investigation").

5. The Chesapeake Investigation examined 13 recordings of enrollments Respondent completed on the phone and for all of those enrollments found that Respondent did not ask required medical underwriting application questions, did not advise the clients that supplemental plans are separate and optional plans for an additional premium, and did not inform the clients about the application fees they were being charged. The Chesapeake Investigation further identified seven clients of Respondent who had filed complaints against Respondent during the prior 12 months. These clients claimed that Respondent had enrolled them in products without their permission and were not told that supplemental coverage he was recommending to them was different from health insurance coverage. The investigation also found that Respondent had manipulated information about those clients, such as their household size and income, in order to obtain better subsidies and lower premiums.

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6. One complainant the Chesapeake Investigation examined is an Oregon resident, identified herein as "RG." The Chesapeake Investigation found that on or about January 1, 2021, Respondent completed an application on behalf of RG. RG informed Respondent that he needed health insurance coverage for doctor appointments, dental appointments, and prescription medication, but that he already had hospitalization coverage. Respondent informed RG that he was applying for health insurance for RG, but in fact he completed and submitted an application for a supplemental medical plan. That plan is not health insurance, and instead provides only limited coverage for certain hospitalizations and other emergency care. Respondent also reduced the annual income that RG told Respondent he earned by $20,000 in order to obtain a greater subsidy under the Affordable Care Act.

7. The Chesapeake Investigation concluded that a number of allegations against Respondent were substantiated, including engaging in egregious or fraudulent conduct, engaging in "clean-sheeting" or entering incorrect information on applications required for proper underwriting, failing to disclose that supplemental coverage is optional or separate coverage, and misrepresenting to customers the benefits of the coverage that they were purchasing.

8. On November 30, 2022, a Division Investigator sent an email to Respondent at two different email addresses that Respondent provided to the Division as part of his licensing application. That email included seven questions for Respondent to answer and requested a response no later than December 30, 2022.

9. On January 3, 2023, having received no response to the foregoing email, the Division Investigator sent a letter by first-class and certified mail to Respondent. That letter also included seven questions for Respondent to answer and requested a response no later than January 31, 2023.

10. At no time did Respondent reply to the Division Investigator's email or letter.

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CONCLUSIONS OF LAW

The Director CONCLUDES that:

11. Under ORS 744.074(1)(h), the Director may revoke an insurance producer license and may take other actions authorized by the Insurance Code in lieu thereof or in addition thereto, for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

12. By enrolling RG in a supplemental medical plan without his knowledge or consent, and submitting false information on the application for that plan, Respondent engaged in fraudulent, coercive, or dishonest practices and therefore is subject to license or other action under ORS 744.074(1)(h).

13. Under ORS 744.074(1)(e), the Director may revoke an insurance producer license and may take other actions authorized by the Insurance Code in lieu thereof or in addition thereto, for intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

14. By misrepresenting to RG the terms of a proposed insurance contract, including by representing that the product was health insurance and provided coverage for medical, dental, and prescription drugs, and further by misrepresenting the annual income of RG on the application for a supplemental medical plan, Respondent intentionally misrepresented the terms of an actual or proposed insurance contract or application for insurance and therefore is subject to license or other action under ORS 744.074(1)(e).

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

16. By failing to respond to the Division's inquiries of November 30, 2022, and

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January 3, 2023, Respondent violated ORS 731.296.

17. 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.

18. Because the Director has reason to believe that Respondent has violated ORS 744.074(1)(h) and (e) and ORS 731.296, the Director may issue an order directed to Respondent to discontinue or desist from those violations under ORS 731.252(1).

ORDERS

The Director issues the following ORDERS:

Order to Cease and Desist

19. Pursuant to the authority of ORS 731.252(1), the Director hereby orders Respondent to CEASE AND DESIST from violating ORS 744.074(1) and ORS 731.296.

Order Revoking Insurance Producer License

20. Pursuant to ORS 744.074(1)(h) and (e), the Director hereby REVOKES Respondent's non-resident insurance producer license.

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FINAL ORDER

21. 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 6th day of July, 2023.

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. 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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