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

In the Matter of: DOMINGO A. LOPEZ, an individual, Respondent.	Case No. INS-22-0099 ORDER TO CEASE AND DESIST, ORDERS REVOKING LICENSE AND ASSESSING CIVIL PENALTIES, ENTERED BY DEFAULT

On March 14, 2023, 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 Orders Revoking License and Assessing Civil Penalties, and Notice or Right to an Administrative Hearing on Domingo A. Lopez ("Lopez").

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

/ / /

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

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.

FINDINGS OF FACT

The Director FINDS that:

1. Lopez is licensed as a nonresident insurance producer in Oregon. Lopez' license number and National Producer Number (NPN) is 18650331.

2. Lopez' business address is 34 E Lancaster Ave, Shillington, PA 19607-2632.

The Fixed Indemnity Policy

3. On September 23, 2021, Lopez contacted an Oregon consumer who is identified for purposes of this order as JS. JS had recently left a job that provided employer-sponsored health insurance in order to care for his wife, who is identified for purposes of this order as MS. MS is on dialysis and JS and was in the market for a health insurance policy to cover both himself and MS. JS had previously filled out a contact form for a lead generator contracted by Lopez.

4. Lopez quoted JS a premium of $299 per month for a health insurance policy from United Health One (UHO) covering both JS and MS. Lopez further represented to JS that the premium would decrease to $78 per month beginning in December of 2021. Lopez further told JS that his coverage under the UHO policy would begin as soon as Lopez collected the first premium payment.

5. Lopez did not discuss with JS the details of the UHO policy in question or whether the UHO policy would be suitable for JS and MS. Lopez furthermore did not discuss coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA) with JS.

6. Lopez did not disclose to JS and MS that the UHO policy was not the major medical policy that they had been seeking, but was instead a Fixed Indemnity policy

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

intended only as a supplement for major medical coverage, and was thus would not meet JS' and MS' needs. Specifically, the UHO Policy would not have covered MS' dialysis and did not meet standards under the Affordable Care Act.

Misstatements on the Application

7. Lopez filled out the application for the UHO policy. JS and MS signed the application electronically.

8. On the application, Lopez misspelled JS' name, mailing address, and email address, with the result that JS and MS did not receive the policy documentation that UHO sent to them as new policyholders.

9. Shortly after signing the application for the UHO policy, JS became concerned and sought to withdraw his application.

10. JS made several attempts to contact Lopez to withdraw his application, but JS was not able to reach a live person at the phone number Lopez provided and JS' voice messages were not returned. On September 29, 2022, JS filed a complaint with the Division against Lopez.

11. On September 30, 2021, the Division contacted Lopez and requested a response to JS' complaint.

12. On October 1, 2021, Lopez responded to the Division's request by email stating that he had never sold insurance to JS. Lopez also stated that he had contacted JS and understood that JS was going to withdraw his complaint. In point of fact, JS has not withdrawn his complaint against Lopez.

13. On November 22, 2021, the Division received a copy of JS' insurance card and reiterated the Division's request to Lopez for copies of his files pertaining to JS. At this time, the Division pointed out to Lopez that JS' name and address appear to be misspelled on the insurance card.

/ / /

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

14. On November 24, 2021, despite his previous representations to the Division, Lopez confirmed that he had sold insurance to JS but had been previously unable to locate the pertinent files as a result of misspelling JS' name.

Statements Regarding Audio Recordings

15. On November 24, 2021, the Division requested a copy of any audio recordings Lopez had of his call with JS.

16. On November 24, 2021, Lopez responded to this request, stating that he no longer had copies of the recordings because he only retains audio recordings for 30 days.

17. On February 4, 2022, the Division asked Lopez to identify the software or audio recording service that he uses to record customer phone calls.

18. On March 18, 2022, Lopez stated that—despite his answer of November 24, 2021—he did not have a recording of his phone call with JS because he did not use any audio recording software at that time.

Division Attempts to Interview Lopez

19. On July 18, 2022, an investigator employed by the Division emailed Lopez to schedule an interview in connection with JS' complaint.

20. On July 19, 2022, Lopez responded by email and stated that he would be available for an interview on July 28, 2022, at 3:00 PM Pacific Time.

21. On July 28, 2022, at 3:00 PM Pacific Time, the investigator called Lopez at the phone number he provided to the Division. Lopez did not pick up the call; instead, the investigator received a recorded phone message stating that her call had been rejected. The Investigator called again at 4:00 PM Pacific time, and again received the same "call rejected" message.

/ / /

/ / /

/ / /

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

22. At 4:04 PM Pacific Time on July 28, 2022, the investigator emailed Lopez to inform him that the investigator had been trying to call him for their interview, but that the investigator's calls had been rejected. The investigator further advised Lopez that the investigator would try to reach him again on August 2, 2022 at 2:00 PM Pacific time.

23. On July 30, 2022, Lopez acknowledged the investigator's email and provided a phone number for the investigator to reach him at.

24. On August 2, 2022, at 2:00 PM the investigator called Lopez at the phone number Lopez provided on July 30. Here again, Lopez did not answer the phone.

25. At the time of this writing, Lopez has not complied with the Division's request for an interview.

CONCLUSIONS OF LAW

The Director CONCLUDES the following:

Misrepresentation in Insurance Transaction

26. Under ORS 746.075 (2)(f), a person may not obtain "money or property by means of any untrue statement of a material fact or any omission to state a material fact."

27. Lopez violated ORS 746.075 (1) by failing to explain to JS and MS that the UHO policy was not a major medical policy and that the UHO Policy would not cover MS' dialysis treatments.

Incompetence in the Insurance Business

28. Under ORS 744.074 (1)(h), an insurance producer may not act in a way that demonstrates "incompetence, untrustworthiness or financial irresponsibility in the conduct of business."

29. Lopez violated ORS 744.074 (1)(h) by misstating JS' name, email address, and mailing address on the UHO application such that JS and MS did not timely receive documentation for the UHO policy, and that Lopez was unable to locate his own files relating to JS and MS.

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

Recordkeeping Requirements

30. Under ORS 744.068 (3), a nonresident insurance producer "shall keep records of insurance transacted by the insurance producer under the nonresident insurance producer license for three years following expiration of the policy."

31. Lopez violated ORS 744.068 (3) by admitting to the Division that he deletes recordings of his phone conversation within 30 days, thereby failing to meet the three-year retention period under ORS 744.068 (3).

Failure to Promptly and Truthfully Respond to Director Inquiries

32. Under ORS 731.296, an insurance producer licensee must "promptly and truthfully" reply to an inquiry by the Director into transactions carried out by the producer licensee.

33. Lopez violated ORS 731.296 as follows:

(a) By failing to attend the interview with the Division's investigator scheduled for 3:00 PM Pacific Time on July 28, 2022; and

(b) By failing to attend the make-up interview with the Division's investigator scheduled for 2:00 PM Pacific Time on August 2, 2022.

Authority for Licensing Action

34. Under ORS 744.074(1), 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" for, among other things:

"(b) Violating any insurance laws, or violating any rule, subpoena or order of the director;" and

"(h) "Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere."

/ / /

/ / /

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

35. Lopez violated ORS 744.068 (3) and ORS 731.296, as more fully described above, thereby authorizing the Director to take action on his license under ORS 744.074(1)(b).

36. Lopez engaged in fraudulent, dishonest, incompetent, or untrustworthy practices for purposes of ORS 744.074(1)(h) as follows:

(a) By omitting to describe the UHO policy to JS and MS; and

(b) By failing to correctly state JS' and MS' names, email address, and mailing address on the application for the UHO policy.

Cease and Desist Authority

37. Under ORS 731.252 (1), because the Director has reason to believe that Lopez has engaged in violations of the Insurance Code, the Director may issue an order to Lopez to cease and desist from violations of the Insurance Code.

Civil Penalties Authority

38. Under ORS 731.988 (1), the Director may impose a civil penalty against an individual insurance producer in an amount not to exceed $1,000 for each violation of the Insurance Code. Each violation is a separate offense.

ORDERS

Now therefore, the Director issues the following Orders:

Cease and Desist

39. As authorized by ORS 731.252 (1), the Director ORDERS Lopez to CEASE AND DESIST from violating ORS 731.296, 744.068 (3); 744.074(1)(b) and (h); and ORS 746.075 (1).

Revocation of Oregon Insurance Producer License

40. As authorized by ORS 744.074 (1)(b) and (h), as more fully described in Paragraphs 35 and 36, the Director hereby REVOKES Lopez' nonresident Oregon insurance producer license.

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

Civil Penalties

41. As authorized by ORS 731.988(1), the Director hereby ORDERS that Lopez be subject to a CIVIL PENALTY of $5,000 as follows:

(a) $1,000 for violating ORS 746.075 (1) as described in Paragraph 27;

(b) $1,000 for violating ORS 744.074 (1)(h) as described in Paragraph 29;

(c) $1,000 for violating ORS 744.068 (3) as described in Paragraph 31; and

(d) $2,000 for violating ORS 731.296 in two instances as described in Paragraph 33.

FINAL ORDER

42. 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.

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.

SO ORDERED this ___ day of _____, 2023.

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

_____

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