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

In the Matter of MICHAEL A. SMITH, (NPN#2082175) Respondent.	Case No. INS-23-0031 FINAL ORDER TO CEASE AND DESIST, FINAL ORDER REVOKING LICENSE, DENYING LICENSE APPLICATION, AND ASSESSING CIVIL PENALTIES, ENTERED BY DEFAULT

On May 2, 2023, the Director of the Department of Consumer and Business Services for the State of Oregon ("Director"), acting in accordance with Oregon Revised Statutes ("ORS") chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 744, 746, 748 and 750 ("Insurance Code"), issued and served a Notice Order against Michael A. Smith ("Smith"), informing Smith that the Director proposed to deny his Oregon nonresident insurance producer license renewal application, revoke his nonresident insurance producer license, and asses civil penalties against Smith for certain violations of the Insurance Code.

The Notice offered Smith an opportunity for a hearing if requested within 60 days of the Notice. The Notice further informed Smith that if a hearing were not conducted because Smith did not timely request a hearing or otherwise defaulted, then the designated portion of the Division's file and all materials submitted by Smith 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 Smith 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. Smith is an Ohio resident with his last recorded address at 6144 North Winthrop Avenue, #406, Chicago, IL 60660.

2. On November 12, 2021, Smith submitted an application with the Division of Financial Regulation ("Division") for a nonresident insurance producer license. In his application Smith answered "no" to question 1(a), which asked whether he had ever been convicted of a misdemeanor, had a judgment withheld or deferred, or was currently charged with committing a misdemeanor. Smith failed to identify his misdemeanor conviction he had incurred.[1] Smith was automatically issued a license based on the false response.

3. On May 4, 2022, Smith submitted an application with the Division to add a line of authority to his existing license. On this application, question 1a is answered "yes" correctly.

4. On June 10, 2022, the Division contacted Smith and directed him to provide an explanation of the failure to accurately report his background to the Division on the previous application. Smith has not provided an explanation to the Division or otherwise responded to its inquiry.

5. On October 14, 2022, the Division contacted Smith to notify him that his Oregon license had been made inactive pending his response to the June 10, 2022 inquiry. Again, no response has been received.

6. March 23, 2023, the Division attempted to call Smith using the phone numbers on his licensing profile. The phone call to Smith's work number went to a voicemail that did not belong to Smith, and person phone number listed is disconnected/not in service.

[1] Smith was arrested and convicted of misdemeanor Domestic Battery in 2009.

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CONCLUSIONS OF LAW

The Director CONCLUDES that

7. ORS 744.074(1)(a) authorizes the Director to place a licensee on probation or to suspend, revoke or refuse to issue or renew a license for providing incorrect, misleading, incomplete or materially untrue information in the license application. Smith violated ORS 744.074(1)(a) when he submitted the November 12, 2021 licensing application with false information regarding his criminal background, thereby authorizing the Director to revoke Smith's license and deny his May 2022 license application.

8. 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. The reply shall be verified by an officer of such person, if the Director so requires. Smith violated ORS 731.296 when he failed to provide the requested documentation regarding his misdemeanor conviction and failed to otherwise respond to the Director's inquiry, as set forth in Paragraphs four through six above.

9. 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. Smith's violation of ORS 731.296 authorizes the Director to revoke Smith's license and deny his license application, pursuant to ORS 744.074(1)(b).

10. 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 Smith committed the foregoing violation of ORS 731.296, the Director may issue an order to Smith to cease and desist, pursuant to ORS 731.252(1).

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11. 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 731.296.

ORDERS

The Director issues the following ORDERS:

12. Pursuant to ORS 731.252(1), the Director hereby ORDERS Smith to CEASE AND DESIST from violating any provision of the Insurance Code, or any administrative rule adopted by the Director under those statutes.

13. Pursuant to ORS 744.074(1)(a) and (b), the Director hereby DENIES Smith's application to add a line of authority to his nonresident individual insurance producer license.

14. Pursuant to ORS 744.074(1)(a) and (b), the Director hereby REVOKES Smith's nonresident individual insurance producer license.

15. The Director, pursuant to ORS 731.988(1), ORDERS that Smith be subject to a CIVIL PENALTY of $500 for violating ORS 744.074(1)(a) and ORS 731.296.

FINAL ORDER

1. 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 11th 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

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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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