BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
FOR THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of	)	**PROPOSED ORDER**
	)	**UPON DEFAULT**
KATHARINE C. McClAREN, Respondent	)	
	)	Case No.: INS 05-12-014

On January 10, 2006, the Insurance Division issued a Notice of Proposed Action, proposing to revoke the resident individual insurance producer's license of Katharine C. McLaren (Respondent) and to assess a civil penalty of $3,000. On January 30, 2006, Respondent requested a hearing. On April 27, 2006, Administrative Law Judge Catherine P. Coburn conducted a contested case hearing in this matter. Assistant Attorney General Kathleen G. Dahlin represented the Insurance Division. Farmers Insurance Agent Keith Skinner, Farmers Licensed Customer Service Representative Bridget (Hale) Barnes and Insurance Division Investigator Ruth Catherine Johnson testified on the Division's behalf. The *pro se* Respondent failed to appear.

ISSUES

The issues are whether the Insurance Division established a *prima facie* case in the record to support revocation of Respondent's Oregon resident individual insurance producer's license and assessment of a $3,000 civil penalty.

EVIDENTIARY RULINGS

Exhibits A1 through A12 were admitted into the record without objection. Additionally, pursuant to the Notice of Hearing dated February 27, 2006, the Insurance Division file is designated as the record in this proceeding.

FINDINGS OF FACT

1. During the relevant period, Respondent held an Oregon resident individual insurance producer's license and was employed by the Skinner Insurance Agency. (Ex. A1; testimony of Skinner.)

2. In January 2005, Respondent purchased a Ford Mustang. She knowingly misrepresented to Butler Ford car dealership and WFS Financial, Inc. and the Oregon Department of Motor Vehicles that the Mustang was covered by Farmers automobile insurance. Respondent never paid any premium to Farmers and knew that Farmers had issued no policy to cover the vehicle. (Exs. A1 through A12; testimony of Skinner, Hale and Johnson.)

CONCLUSIONS OF LAW

The Insurance Division established a *prima facie* case in the record to support revocation of Respondent's Oregon resident individual insurance producer's license and assessment of a $3,000 civil penalty.

OPINION

Pursuant to OAR 137-003-0670, when a party is notified of the time and place of the hearing and fails to appear for hearing for reasons not beyond that party's reasonable control, an adverse order may be entered only upon a *prima facie* case. The administrative law judge may consider whether the record contains evidence that persuades her of the existence of facts necessary to support the order. By Notice of Hearing dated February 27, 2006, the Office of Administrative Hearings (OAH) notified Respondent of the time and place of the hearing. Respondent failed to appear at hearing and made no contact with OAH to explain any circumstances that might justify her failure to appear. I now consider whether the record contains facts establishing a *prima facie* case.

ORS 744.074 provides:

> (1) The Director of the Department of Consumer and Business Services 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 any one or more of the following causes:
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> *****
>
> (h) Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

Additionally, ORS 731.988 provides:

> (1) Any person who violates any provision of the Insurance Code, any lawful rule or final order of the Director of the Department of Consumer and Business Services or any judgment made by any court upon application of the director, shall forfeit and pay to the General Fund of the State Treasury a civil penalty in an amount determined by the director of not more than $10,000 for each offense. In the case of individual insurance producers, adjusters or insurance consultants, the civil penalty shall be not more

than $1,000 for each offense. Each violation shall be deemed a separate offense.

The record establishes that Respondent knowingly misrepresented that her vehicle was covered by a Farmers automobile insurance policy. This conduct constitutes a dishonest business practice within the meaning of ORS 744.074(1)(h). Therefore, license revocation is warranted.

Next, Respondent misrepresented the status of her automobile insurance to Butler Ford car dealership, to WFS Financial, Inc and to the Oregon DMV. Inasmuch as Respondent engaged in three instances of a fraudulent business practice, assessment of a civil penalty of $3,000 is warranted.

In conclusion, I find that the Insurance Division established a *prima facie* case in the record to support revocation of Respondent's Oregon resident individual insurance producer's license and assessment of a $3,000 civil penalty. Accordingly, I recommend that the Division issue the following order:

ORDER

The Oregon resident individual insurance producer's license to Catherine C McLaren shall be revoked. A civil penalty of $3,000 shall be assessed.

IT IS SO ORDERED.

Dated this 2nd day of May 2006.

/s/ Catherine P. Coburn
Catherine P. Coburn,
Administrative Law Judge
Office of Administrative Hearings

NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE REVIEW

NOTICE: Pursuant to ORS 183.460, the parties are entitled to file written exceptions to this Proposed Order and to present written argument concerning those exceptions to the Director. Written exceptions must be received by the Department of Consumer and Business Services within 30 days following the date of service of this Proposed Order. Mail exceptions to:

Mitchel D. Curzon
Chief Enforcement Officer
Department of Consumer and Business Services
Insurance Division
350 Winter Street NE
Salem, OR 97301-3883