

**STATE OF OREGON  
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
INSURANCE DIVISION**

In the Matter of **Guy G. Cardinale** ) **FINAL ORDER**  
 ) Case No. INS 08-12-013

**History of the Proceeding**

The Director of the Oregon Department of Consumer and Business Services (director) commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take enforcement action against Guy G. Cardinale (Cardinale).

On 1/20/09, the director issued a notice of proposed action notifying the party that the director proposed to take enforcement action against the party and the party was entitled to a hearing pursuant to ORS 183.415. The notice of proposed action included a statement that if a hearing was not conducted then the designated portion of the Insurance Division's file 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 the party a request for a hearing and did not conduct a hearing.

The director finds that the record of this proceeding to date, including information in the designated portion of the Insurance Division's file and all materials submitted by the party if any, proves a *prima facie* case.

The director now makes the following final decision in this proceeding.

**Findings of Fact and Conclusions of Law**

Licensing Information

Cardinale was licensed in Oregon as a nonresident insurance producer from 2/11/04 to 6/30/08. On 6/30/08, Cardinale's license expired.<sup>1</sup> Cardinale's license

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<sup>1</sup> ORS 744.011 permits the director to investigate and take enforcement action against a person who was licensed in Oregon as an insurance producer but is no longer licensed because the license expired or was surrendered.

number is 194659, and NAIC national producer number is 406843. Cardinale's residence address is believed to be located in Rumson, New Jersey.

#### Failed to Report Criminal Action

Cardinale is subject to enforcement action pursuant to ORS 744.089(2) because of the following circumstances. ORS 744.074(1)(b) permits the director to take any authorized enforcement action against a person who has applied for a license or is licensed in Oregon as an insurance producer if the person violated any insurance statute; or any rule, order, or subpoena, of the director or the insurance regulator of another state. ORS 744.089(2), an insurance statute, requires a person who is licensed in Oregon as an insurance producer to notify the director of any criminal prosecution of the person; and provide a copy of the initial complaint, order resulting from the hearing and any other relevant legal documents, within 30 days of the pretrial hearing. On 7/28/06, in the New Jersey Superior Court, Law Division – Criminal, in Monmouth County, in the criminal case *State of New Jersey vs. Guy Cardinale*, case number 06-07-00082-S, Cardinale was charged with committing five counts of the crime of theft by deception in the second or third degree, pursuant to New Jersey Statutes Annotated (N.J.S.A.) §2C:20-4, and two counts of the crime of forgery in the fourth degree, pursuant to N.J.S.A. §2C:21-1(a)(3). According to an indictment dated 7/28/06, Cardinale allegedly committed the crime of theft by deception by, between on or about 7/22/02 and on or about 3/1/03, creating or reinforcing the false impression that he was entitled to commissions associated with life insurance policies for which four purported clients had not applied. Also according to the indictment, Cardinale allegedly committed the crime of forgery by, on or about 10/7/02 and again on or about 11/25/02, sending to The Canada Life Assurance Company (Canada Life) two authorizations to honor electronic drafts which Cardinale knew to be forged, so that they purported to be the acts of the named applicants who did not authorized such acts. Subsequently on 11/29/06, in the same court, in the criminal case *State of New Jersey vs. Guy Cardinale*, case number 06-11-2673-A, Cardinale was charged with committing one count of the crime of knowingly issuing a bad check in the third degree, pursuant to N.J.S.A.

§2C:21-5. According to an accusation dated 11/29/06, Cardinale allegedly committed the crime by, on or about 7/25/06, and again on or about 8/28/06, issuing a check, number 1128, drawn on the account of Complete Life Quote, Inc. at Sovereign Bank, in the amount of \$66,488.00 knowing that the bank would not honor the check. According to a press release dated 4/13/07, issued by the New Jersey Attorney General, “Cardinale, who was employed as an agent for the Canada Life Assurance Company, admitted [at a plea hearing on 11/29/06] that between July and December 2002, he submitted four life insurance policy applications and supporting records to create the impression that customers had purchased policies when, in fact, they had not. Cardinale submitted the fraudulent documents in order to collect more than \$346,025 in up-front commissions on the four fictitious sales. Cardinale also admitted that between July 25 and Aug. 28, 2006, he issued a check in the amount of \$66,488 to Transamerica in connection with the purchase of a life insurance policy on his own life. The check was twice dishonored by Sovereign Bank.” On 11/29/06, Cardinale appeared before the court to respond to the charges. Thus, Cardinale was required to notify the Insurance Division of the criminal prosecution, and provide a copy of the specified documents, by 12/29/06. On 12/16/08, 718 days late, and only after the director commenced an investigation of Cardinale and in response to an inquiry letter dated 12/1/08 from the director, Cardinale sent an e-mail to the director acknowledging that Cardinale had been convicted. However, Cardinale did not provide the director with a copy of the indictment, accusation, or any other relevant legal documents.

#### Convicted of Felony Involving Dishonesty or Breach of Trust

Cardinale is subject to enforcement action pursuant to ORS 731.428(4) because of the following circumstances. ORS 731.428(4) requires the director to revoke, suspend, or refuse to renew, the Oregon insurance producer license issued to a person who was convicted of, among other things, a felony involving dishonesty or a breach of trust. New Jersey classifies crimes by degrees rather than as felonies and misdemeanors. N.J.S.A §2C:43-1. A person convicted of a crime of the third degree may be imprisoned for a period between three and five years. N.J.S.A. §2C:43-

(a)(3). However, under New Jersey common law, a crime punishable by imprisonment for more than one year was classified as a felony. See [\*United States v. Brown\*, 937 F.2d 68, 70 \(2d Cir. 1991\)](#) (relying on New Jersey common law to determine that the State classifies offenses punishable by more than one year as felonies); [\*State v. Doyle\*, 42 N.J. 334, 200 A.2d 606, 614 \(1964\)](#) (so defining “felony” for purposes of determining whether peace officer may make an arrest without a warrant). Similarly, a crime punishable by imprisonment for more than one year is classified as a felony pursuant to both federal law, U.S.C.A. §3559(a), and Oregon law, ORS 161.525. Thus, a crime under the laws of New Jersey punishable by imprisonment for more than one year is a felony for purposes ORS 731.428. Oregon Administrative Rules (OAR) 836-071-0321(1) defines a felony involving dishonesty as “includ[ing] but not limited to any offense constituting or involving theft, burglary, perjury, bribery, forgery, counterfeiting, a false or misleading oral or written statement, deception, fraud, a scheme or artifice to deceive or defraud, a material misrepresentation or the failure to disclose material facts.” OAR 836-071-0321(2) defines a felony involving a breach of trust as “includ[ing] but not limited to any offense constituting or involving misuse, misapplication or misappropriation of anything of value held as a fiduciary, including but not limited to a trustee, administrator, executor, conservator, receiver, guardian, agent, employee, partner, officer, director or public servant, or anything of value of any public, private or charitable organization.” Sometime between 3/2/07 and 4/13/07, Cardinale was convicted, based on a plea of guilty, by the New Jersey Superior Court, Law Division – Criminal, in Monmouth County, in the criminal case *State of New Jersey vs. Guy Cardinale*, case number 06-07-00082-S, of committing five counts of the crime of theft by deception in the third degree, pursuant to N.J.S.A. §2C:20-4. Also sometime between 3/2/07 and 4/13/07, Cardinale was convicted, based on a plea of guilty, by the same court, in the criminal case *State of New Jersey vs. Guy Cardinale*, case number 06-11-2673-A, of committing one count of the crime of knowingly issuing a bad check in the third degree, pursuant to N.J.S.A. §2C:21-5. On 4/13/07, the court sentenced Guy, *inter alia*, to imprisonment for five years

pursuant to N.J.S.A. §2C:43-6(a)(3), and restitution of \$71,354.75 to Canada Life and \$28,451.38 to “TransAmerica Insurance” pursuant to N.J.S.A. §2C:43-3.

Administrative Action by Other State Insurance Regulator

Cardinale is subject to enforcement action pursuant to ORS 744.074(1)(i) because of the following circumstances. ORS 744.074(1)(i) permits the director to take any authorized enforcement action against a person who has applied for a license or is licensed in Oregon as an insurance producer if another state insurance regulator canceled, revoked, suspended, or refused to renew, the person’s license in that state as an insurance producer, adjuster or consultant.

On 4/17/07, the insurance regulator for the State of Massachusetts issued an order, unnumbered, revoking Cardinale’s Massachusetts nonresident insurance producer license because Cardinale violated Massachusetts General Law (M.G.L.) chapter 175 § 162V(b) by failing to timely notify the regulator of a criminal prosecution of Cardinale.

On 7/5/07, the insurance regulator for the State of Kansas issued an order, numbered 3683-SO, revoking Cardinale’s Kansas nonresident insurance producer license effective 7/24/07 because Cardinale violated Kansas Statutes Annotated (K.S.A.) §40-4909(a)(6) by having been convicted of a crime; and Kansas Administrative Regulations §40-7-9(a), by failing to timely notify the regulator of an administrative action by another state insurance regulator against Cardinale.

On 1/16/08, the insurance regulator for the State of Utah issued an order, numbered 2081, revoking Cardinale’s Utah nonresident insurance producer because Cardinale violated Utah Code Annotated (U.C.A.) §31A-23a-111(5)(b)(xiv) by having been convicted of a crime; and U.C.A. §31A-23a-105(2)(b)(ii) and (c)(i)(B)(III) by failing to timely notify the regulator of a criminal prosecution of Cardinale.

On 2/1/08, the insurance regulator for the State of Ohio issued an order, unnumbered, revoking Cardinale’s Ohio nonresident insurance producer license because Cardinale violated Ohio Revised Code (O.R.C.) §3905.14(B)(6) by having been convicted of a crime.

### Failed to Report Administrative Action by Other State Insurance Regulator

Cardinale is subject to enforcement action pursuant to ORS 744.089(1) because of the following circumstances. ORS 744.074(1)(b) permits the director to take any authorized administrative action against a person who has applied for a license or is licensed in Oregon as an insurance producer if the person violated any insurance statute; or any rule, order, or subpoena, of the director or the insurance regulator of another state. ORS 744.089(1), an insurance statute, requires a person who is licensed in Oregon as an insurance producer to notify the director of any administrative action taken against the person by another state insurance regulator and provide a copy of the order within 30 days of the final disposition of the action.

On 4/17/07, the insurance regulator for the State of Massachusetts issued an order, unnumbered, revoking Cardinale's Massachusetts nonresident insurance producer license. The action was finally disposed of on 5/17/07 pursuant to M.G.L. chapter 30A §14(1). Thus, Cardinale was required to notify the director of the action and provide a copy of the order by 6/18/07. Cardinale has not notified the director of the action or provided a copy of the order.

On 7/5/07, the insurance regulator for the State of Kansas issued an order, numbered 3683-SO, revoking Cardinale's Kansas nonresident insurance producer license effective 7/24/07. The action was finally disposed of on 8/23/07 pursuant to K.S.A §77-613(b) & (e). Thus, Cardinale was required to notify the director of the action and provide a copy of the order by 9/24/07. Cardinale has not notified the director of the action or provided a copy of the order.

On 1/16/08, the insurance regulator for the State of Utah issued an order, numbered 2081, revoking Cardinale's Utah insurance producer. The action was finally disposed of on 2/15/08 pursuant to U.C.A. §63G-4-401(3)(a). Thus, Cardinale was required to notify the director of the action and provide a copy of the order by 3/17/08. Cardinale has not notified the director of the action or provided a copy of the order.

On 2/1/08, the insurance regulator for the State of Ohio issued an order, unnumbered, revoking Cardinale's Ohio nonresident insurance producer license.

The action was finally disposed of on 2/16/08, pursuant to O.R.C. §119.12. Thus, Cardinale was required to notify the director of the action and provide a copy of the order by 3/17/08. Cardinale has not notified the director of the action or provided a copy of the order.

**Order**

Pursuant to ORS 744.074(1), Cardinale's expired Oregon nonresident insurance producer license is revoked on the date of this order.

**Notice of Right to Judicial Review**

A party has the right to judicial review of this order pursuant to ORS 183.480 and ORS 183.482. A party may request judicial review by sending a petition for judicial review to the Oregon Court of Appeals. The court must receive the petition within 60 days from the date this order was served on the party. If the order was personally delivered to a party, then the date of service is the date the party received the order. If the order was mailed to a party, then the date of service is the date the order was mailed to the party, not the date the party received the order. If a party files a petition, the party is requested to also send a copy of the petition to the Insurance Division.

Dated February 23, 2009

/s/ Teresa D. Miller  
Teresa D. Miller  
Acting Administrator  
Insurance Division  
Department of Consumer and Business Services

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