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

BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

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| In the Matter of the Certificate of Authority of Financial Guaranty Insurance Company, New York, New York | ) ) ) | SUSPENSION ORDER<br><br>Case No. INS 10-04-019 |

## INTRODUCTION

The Director of the Department of Consumer and Business Services (Director) hereby issues a Suspension Order to Financial Guaranty Insurance Company (FGIC) under Oregon Revised Statutes (ORS) 731.256 and 731.414 because the Director has reason to believe the following:

## FINDINGS OF FACT

Since July 1, 1972, FGIC, a New York corporation, has been issued a certificate of authority pursuant to ORS 731.402. It is currently authorized to transact Surety insurance within the state of Oregon.

On or about March 1, 2010, FGIC filed financial statements reflecting capital and surplus of ($1,281,420,411) as of December 31, 2009.

## ULTIMATE FINDINGS OF FACT

FGIC did not maintain at least $2.5 million in capital and surplus, or any combination thereof, as required by ORS 731.554(1).

## CONCLUSIONS OF LAW

FGIC did not comply with the minimum capital and surplus requirement of ORS 731.554 for a certificate of authority.

Such condition is a ground under ORS 731.414(1)(a) for suspending an insurer's certificate of authority without a hearing under ORS 731.414(2).

## ORDER

Pursuant to ORS 731.414, the Oregon certificate of authority issued to FGIC is suspended. The period of suspension shall be continuous from the date of this order until rescinded by further written order of the Director, pursuant to ORS 731.426(1). Pursuant to ORS 731.426(2), during the period of suspension, FGIC shall not solicit or issue new policies of insurance in this state or assume any Oregon risk. During the period of suspension, FGIC shall also not issue renewal policies in this state. FGIC shall file its annual financial statement and pay any fees and taxes required to be paid. FGIC shall service any existing policies of insurance issued to persons residing in Oregon in accordance with Oregon Law.

Pursuant to ORS 731.422(2), the authority of all producers to represent FGIC within the state of Oregon is also suspended. The period of suspension shall be for the same period that the certificate of authority issued to FGIC is suspended. During the period of suspension, a producer may represent FGIC only to the extent that FGIC may service any existing policies of insurance issued to persons residing in Oregon and that FGIC has authorized the producer to represent it.

FGIC is hereby ordered to provide a copy of this suspension order to all appointed producers within 14 days of the date of this order. The company shall provide to the director within 21 days from the date of this order an affidavit certifying that notice to appointed producers has been provided.

Issued the 22nd day of April, 2010.

Cory Streisinger
Director
Insurance Commissioner
Department of Consumer and Business Services

## RIGHT TO A HEARING

The party has the right to a hearing pursuant to ORS 183.415. A party may request a hearing by sending a written request to the Insurance Division. A party may send the request to the Insurance Division by delivering it to the Labor and Industries Building, 350 Winter Street NE, Salem, Oregon; or mailing it to PO Box 14480, Salem, OR 97309-0405, or faxing it to 503-378-4351; or e-mailing it to mitchel.d.curzon@state.or.us. The Insurance Division must *receive* the request within 21 days from the date this notice was *sent* to the party.

If the Insurance Division receives from or on behalf of a party a written request for a hearing by the due date described above, then the Insurance Division will refer the request to the Office of Administrative Hearings (OAH). OAH will schedule the hearing and notify the party of the date and location of the hearing and other related information. OAH will conduct the hearing in accordance with the Oregon Administrative Procedures Act, ORS Chapter 183; and related rules, Oregon Administrative Rules (OAR) 137-03-0502 *et seq*. A party that is a corporation, partnership, limited liability company, unincorporated association, trust, or government agency must be represented at a hearing by an attorney licensed in Oregon except as otherwise provided by law. Subsequently, OAH will issue a proposed order, and the director will issue a final order.

If the Insurance Division does not receive from or on behalf of a party a written request for a hearing by the due date described above; or a party that has timely requested a hearing withdraws the request, notifies the Insurance Division or OAH that the party will not appear at a hearing, or does not appear at a scheduled hearing, then the director will issue a final order by default taking the action proposed therein. If the director issues a final order by default, then the record of this proceeding to date, including the designated portion of the Insurance Division's file on the party, automatically become part of the contested case record for the purpose of proving a *prima facie* case.