

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of **Progressive Classic Insurance**) **STIPULATION and**
Company) **FINAL ORDER**
) Case No. INS 13-08-005

STIPULATION

The Director of the Oregon Department of Consumer and Business Services (director), and through the Insurance Division, commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.256, to take enforcement action against Progressive Classic Insurance Company (Progressive Classic).

Progressive Classic desires to conclude this proceeding without a hearing by entering into this stipulation pursuant to ORS 183.417(3).

Progressive Classic waives all rights relative to an administrative hearing and judicial review thereof.

Progressive Classic stipulates to the following facts, conclusions, action, and to the issuance of a final order incorporating this stipulation.

Progressive Classic understands that the stipulation and final order is a public record and shall be posted permanently on the Insurance Division's website.

Facts and Conclusions

Licensing Information

Progressive Classic has been licensed in Oregon as a foreign insurer since 9/20/84. Progressive Classic's NAIC number (cocode) is 42994, and federal employer identification number (FEIN) is 39-1453002. Progressive Classic's last recorded principal business mailing address is 6300 Wilson Mills Road W33; Cleveland, OH 44143-2182; and principal business telephone number is 440-461-5000.

Failed to Acknowledge and Act Promptly Upon Communication About Claim and
Failed to Timely Respond to Director's Inquiry

Progressive Classic is subject to enforcement action pursuant to ORS 746.230(1)(b) and ORS 731.296 because of the following circumstances. ORS 746.230(1)(b) prohibits an insurer from failing to acknowledge and act promptly upon communications relating to claims. ORS 731.296 requires a person licensed in Oregon as an insurance producer to promptly and truthfully respond to inquiries from the director. A person, who resided in Oregon and was insured under an automobile insurance policy issued by Progressive Classic, was injured in an automobile accident on 3/22/10. The person initially denied any injury to his face but later claimed that certain teeth were damaged in the accident. On 4/19/10, the person was examined by a dentist. From April 2010 to September 2011, the dentist treated the person's teeth. The person filed with Progressive Classic a claim for payment of the treatment. Progressive Classic paid for some of the treatment from April to June 2011, but refused to pay for the treatment thereafter until Progressive Classic could review the person's medical records to determine if the teeth were damaged in the accident. On or about 9/30/11, Progressive Classic requested a consulting dentist review certain medical records of the person and give his opinion of whether the teeth were damaged in the accident. On or about 11/10/11, Progressive Classic received from the consulting dentist a report dated 11/3/11 concluding that "all claims in this [accident] are unsubstantiated as they relate to any orofacial structures." On or about 11/14/11, Progressive Classic sent to the dentist a letter dated 11/14/11 requesting the dentist repay to Progressive Classic \$8,766 that Progressive Classic had paid to the dentist because Progressive Classic believed that the teeth were not damaged in the accident. The letter enclosed a copy of the consulting dentist's report. On or about 11/30/11, the dentist sent to Progressive Classic a letter dated 11/30/11 explaining in detail why the dentist believed that the person's teeth were damaged in the accident. The dentist's letter requested Progressive Classic "respon[d] to this rebuttal." On 12/5/11, Progressive Classic received the dentist's letter. Progressive Classic was required to send to the

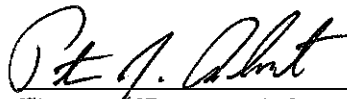
dentist an appropriate reply by 1/4/12. As described below, Progressive Classic acknowledged the dentist's letter on 3/12/12 but did not respond to the dentist's explanations until 92 days late on or about 4/5/12. On or about 2/8/12, Progressive Classic sent a "final notice" to the dentist continuing to request the dentist repay the money that Progressive Classic had paid to the dentist. On or about 2/8/12, the dentist called Progressive Classic about the "final notice" but purportedly Progressive Classic declined to further discuss the matter with the dentist. On or about 2/14/12, the dentist filed with the director a complaint about Progressive Classic. On or about 2/16/12, the director sent to Progressive Classic a letter dated 2/16/12, enclosing the dentist's letter, and requesting Progressive Classic to "address[] each of the issues raised in the complaint." The director's letter requested Progressive Classic respond within 21 days after receiving the letter. On 2/22/12, Progressive Classic received the director's letter. Progressive Classic was required to respond to the director's letter by 3/14/12. As described below, Progressive Classic acknowledged the director's letter on 3/6/12 but did not completely respond to the director's letter until 91 days late on or about 6/12/12. On 3/6/12, the director received from Progressive Classic a letter dated 3/6/12 acknowledging receipt of the director's letter, enclosing a copy of the consulting dentist's report, and stating that "[i]t is clear in this [report] that the patient was treated for things found to be unrelated to the motor vehicle accident." However, neither Progressive Classic's letter nor the enclosed consulting dentist's report discussed any of the explanations in the dentist's letter. On 3/7/12, the director sent an e-mail to Progressive Classic, *inter alia*, requesting Progressive Classic send to the consulting dentist the dentist's letter. On 3/13/12, Progressive Classic sent to the dentist a letter dated 3/12/12 acknowledging receiving the dentist's letter, and saying that Progressive Classic had sent a copy of the dentist's letter to the consulting dentist and would notify the dentist if the consulting dentist changed his conclusion. On or about 4/3/12, the consulting dentist sent to Progressive Classic a response to the dentist's letter adhering to the consulting dentist's initial conclusion. The consulting dentist's response responded to the dentist's

explanations and thus addressed the issues raised by the dentist's letter. On or about 4/5/12, Progressive Classic sent to the dentist a copy of the consulting dentist's response. On 6/12/13, not having received a copy of the consulting dentist's response as originally implicitly requested in the director's letter, the director sent an e-mail to Progressive Classic specifically requesting a copy of the consulting dentist's response. On the same date, 6/12/12, 91 days late, the director received from Progressive Classic a copy of the consulting dentist's response.

Action

Pursuant to ORS 731.988(1), Progressive Classic is assessed a civil penalty of \$6,000.00. The payment shall be made in the form of a check payable to the "Department of Consumer and Business Services" for the full amount due. The payment shall be delivered or mailed to the Insurance Division at the Labor and Industries Building, 350 Winter Street NE Room 300, Salem, OR 97301-3880; or mailed to the Insurance Division at PO Box 14480, Salem, OR 97309-0405. The payment shall be received by the Insurance Division before the date of the final order.

Dated 9-9-2013



[Signature of Representative]

PETER J. ALBERT

[Printed Name of Representative]

SECRETARY

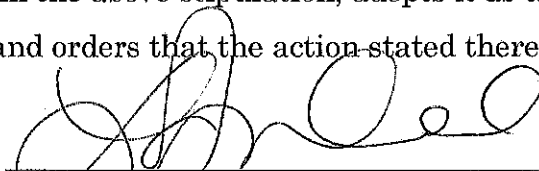
[Printed Title of Representative]

Progressive Classic Insurance Company

FINAL ORDER

The director incorporates herein the above stipulation, adopts it as the director's final decision in this proceeding, and orders that the action stated therein be taken.

Dated SEP 18 2013



Laura N. Cali, FCAS, MAAA

Insurance Commissioner and Chief Actuary