STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of **Nicole R. Maxey**	)	**FINAL ORDER**
	)	Case No. INS 14-07-001

History of the Proceeding

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

On 7/3/14, the director issued a notice of proposed action informing the party that the director proposed to revoke Maxey's Oregon resident individual insurance producer license pursuant to ORS 744.074 and ORS 670.280(3). The notice also informed the party that the party was entitled to a hearing pursuant to ORS 183.415, and if the party wanted a hearing then the party had to send to the director a written request for a hearing so that the director received it by 7/24/14. The notice further informed the party that if a hearing was not conducted because the party did not timely request a hearing or otherwise defaulted then the designated portion of the Insurance Division's file and all materials submitted by the party 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 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

Maxey has been licensed in Oregon as a resident individual insurance producer since 1/18/01. Maxey's license is scheduled to expire on 6/30/15. Maxey's NAIC

national producer number is 6245767. Maxey's last recorded residence and business address is 14552 SE Topaz Avenue, Milwaukie, OR 97267-2233; telephone number is 503-722-3296; and e-mail address is nikkigene@hotmail.com.

Failed to Notify Director of Change of Business Address or Telephone Number

Maxey is subject to enforcement action pursuant to ORS 744.074(1)(b) for violating ORS 744.068(4)(a). 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 violates any insurance law, or violates any rule, subpoena, or order of the director or of the insurance regulator of another state or Mexico or Canada. ORS 744.068(4)(a) requires a person licensed in Oregon as an insurance producer to notify the director of a change of address or telephone number of the principal place of business or any location at which the insurance producer transacts business not later than the 30th day after the date of the change. On 4/14/12, Maxey stopped working at Premier Choice Insurance Agency, Inc., 900 Main Street Suite 104, Oregon City, OR 97045-1865. Maxey was required to notify the director of the change by 5/14/12. On 6/24/13, 406 days late, Maxey notified the director of the change but only after the director began investigating Maxey and, during the investigation, requested Maxey to provide the information to the director.

Engaged in Misconduct Substantially Related to Qualifications for License

Maxey is subject to enforcement action pursuant to ORS 670.280(3). ORS 670.280(3) states, *inter alia,* that "a licensing board, commission or agency may deny an occupational or professional license or impose discipline on a licensee based on conduct that is not undertaken directly in the course of the licensed activity, but that is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required. In determining whether the conduct is substantially related to the fitness and ability of the applicant or licensee to engage in the activity for which the license is required, the licensing board, commission or agency shall consider the relationship of the facts with respect to the conduct and all intervening circumstances to the specific occupational or professional standards." On or about 5/16/12, the Oregon Employment Department (OED) issued a decision dated

5/16/12. The decision dated 5/16/12 canceled a previous decision dated 4/30/12, and replaced it with a new decision "based on new information received after the original decision was issued." The decision dated 5/16/12 concluded that Maxey "willfully made a misrepresentation and failed to report a material fact to obtain [unemployment] benefits." The decision found that Maxey received $12,230.00 in benefits to which she was not entitled, by (1) claiming benefits for the period 11/13/11 through 3/31/12, and stating that she was actively seeking work during the period when she was not actively seeking work, and (2) by claiming benefits for the week ending 1/21/12, and stating that she was available for work during the period when she was not available for work. The decision ordered Maxey to repay the unentitled benefits of $12,230.00, pay a penalty of $1,834.50, and be disqualified for 52 weeks of future benefits. Maxey's willful misrepresentation and failure to report a material fact to obtain unemployment benefits is substantially related to her fitness and ability to engage in the activities of a licensed insurance producer in Oregon. An insurance producer is required to, *inter alia*, be truthful when applying for a license, comply with applicable laws, not take or keep money or property that they are not entitled to, and not make misrepresentations to others. See ORS 744.074(1)(a)-(e), (g)-(h). Maxey's conduct described in OED's decision demonstrates that Maxey was not truthful when applying for unemployment benefits, did not comply with applicable laws, received money that she was not entitled to, and made misrepresentations by both commission and omission to OED.

Failed to Report Administrative Action by Other Government Agency

Maxey is subject to enforcement action pursuant to ORS 744.074(1)(b) for violating ORS 744.089(1). 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 violates any insurance law, or violates any rule, subpoena, or order of the director or of the insurance regulator of another state or Mexico or Canada. ORS 744.089(1) 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 or federal governmental agency, and

provide a copy of the order, within 30 days of the final disposition of the action. On 5/16/12, OED issued an administrative decision ordering Maxey to repay unentitled benefits of $12,230.00, pay a penalty of $1,834.50, and be disqualified for 52 weeks of future benefits, as described above. The decision instructed Maxey that if Maxey wanted to "appeal" the decision then she had to file an "appeal" by 6/5/12. Maxey did not "appeal" the decision. Thus, the action was finally disposed of on 6/5/12. Maxey was required to notify the director of the action and provide a copy of the order by 7/5/12. On 6/24/13, 354 days late, Maxey notified the director of the action and provided a copy of the order but only after the director began investigating Maxey and, during the investigation, requested Maxey to provide the information to the director.

Order

Pursuant to ORS 744.074(1) and ORS 670.280(3), Maxey's Oregon resident individual 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 by delivering it to the Labor and Industries Building, 350 Winter Street NE Room 300, Salem, Oregon 97301-3880; 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.

Dated AUG 07 2014

Laura N. Cali, FCAS, MAAA
Insurance Commissioner and Chief Actuary

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

In the Matter of **Nicole R. Maxey**	) **CERTIFICATE of**) **SERVICE of**) **FINAL ORDER**) Case No. INS 14-07-001

I certify that I sent the final order to the following person(s) on the date and by the means indicated below:

Nicole R. Maxey
14552 SE Topaz Avenue
Milwaukie, OR 97267-2233

- ✓ US First Class Mail
- ✓ E-mail to nikkigene@hotmail.com

Dated AUG 07 2014

Mitchel D. Curzon
Chief Enforcement Officer

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