STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION

BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

In the Matter of the Registration of Fairway Physicians Insurance Company, A Risk Retention Group, District of Columbia, Oregon	)))	SUSPENSION ORDER Case No. INS-FR 17-11-008

INTRODUCTION

The Director of the Department of Consumer and Business Services (Director) hereby issues a Suspension Order to Fairway Physicians Insurance Company, a Risk Retention Group ("Fairway"), under Oregon Revised Statutes (ORS) and 735.345, 731.256 and 731.414, because the Director has reason to believe the following:

FINDINGS OF FACT

On June 25, 2004, Fairway, an Oregon corporation, has been issued a certificate of authority pursuant to ORS 735.315 to conduct business as a risk retention group offering liability insurance within the state of Oregon.

On or about September 8,2017, the Attorney General for the District of Columbia, its attorneys, petitions the Court of Stephen C. Taylor, Commissioner of the District of Columbia Department of Insurance, Securities and Banking (Commissioner), appointing the Commissioner and any of his successors in office as liquidator of Fairway. The petition was granted October 17, 2017. Further, the Attorney General for the District of Columbia suspended the certificate of authority of FAIRWAY on October 17, 2017, due to insolvency.

ULTIMATE FINDINGS OF FACT

The insurance supervisory official of the District of Columbia commenced a delinquency proceeding (liquidation) against FAIRWAY and suspended its certificate of authority.

CONCLUSIONS OF LAW

ORS 735.315(2)(a) requires a foreign risk retention group doing business in Oregon to observe and abide by the laws of this state, including submitting to the director a copy of its financial statement certified by an independent public accountant.

ORS 735.315(7)(b) prohibits the solicitation or sale of insurance by, or operating of, a risk retention group that is in a hazardous financial condition or is financially impaired.

ORS 735.315(10) requires a risk retention group not organized in this state and doing business in this state to comply with a lawful order issued in a delinquency proceeding commenced by the insurance commissioner of any state if there has been a finding of financial impairment after an examination. Rehabilitation is a form of delinquency proceeding as defined in ORS 734.014(1).

ORS 735.340 authorizes the director to make use of any of the powers established under the Insurance Code to enforce the laws of this state so long as those powers are not specifically preempted by the federal Product Liability Risk Retention Act of 1981, as amended by the Risk Retention Amendments of 1986.

ORS 735.345 provides that a risk retention group that violates any provision of ORS 735.300 to 735.365 is subject to criminal and civil penalties applicable to insurers generally, and to suspension or revocation of its certificate of authority to transact insurance.

ORS 731.414(1)(c) provides that the Director shall refuse to continue, or shall suspend or revoke, an insurer's authority if, as a foreign insurer, its certificate of authority to transact insurance is suspended or revoked by its state of domicile.

ORDER

Pursuant to ORS 735.345 and 731.414(1)(c), the Oregon risk retention group registration issued to FAIRWAY is suspended. Upon suspension, FAIRWAY shall no longer solicit or issue new policies of insurance in this state or assume any Oregon risk. FAIRWAY shall also not issue renewal policies in this state. Suspension does not relieve FAIRWAY of any tax burden incurred as a result of its transaction of insurance in this state prior to suspension. FAIRWAY shall provide services as required by existing service contracts held by persons residing in Oregon covered under existing reimbursement insurance policies issued to obligors of such service contracts in accordance with Oregon Law.

Pursuant to ORS 731.422(2), the authority of all producers to represent FAIRWAY within the state of Oregon is also suspended. Subsequent to suspension, a producer may represent FAIRWAY only to the extent that FAIRWAY may service any existing policies of insurance issued to persons residing in Oregon and that FAIRWAY has authorized the producer to represent it.

FAIRWAY is hereby ordered to provide a copy of this suspension order to all appointed producers within 14 days of the date of this order. FAIRWAY 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 4th day of December , 2017.

Jean Straight
Acting 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 Division of Financial Regulation. A party may send the request to the Division of Financial Regulation 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 douglas.s.sedwick@oregon.gov. The Division of Financial Regulation must *receive* the request within 21 days from the date this notice was *sent* to the party.

If the Division of Financial Regulation receives from or on behalf of a party a written request for a hearing by the due date described above, then the Division of Financial Regulation 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 Commissioner will issue a final order.

If the Division of Financial Regulation 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 Commissioner will issue a final order by default taking the action proposed therein. If the Commissioner issues a final order by default, then the record of this proceeding to date, including the designated portion of the Division of Financial Regulation's file on the party, automatically become part of the contested case record for the purpose of proving a *prima facie* case.