STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCIAL REGULATION

In the Matter of:	Case No. INS-18-0016
KIMBERLY SPEARS, Respondent.	FINAL ORDER TO CEASE AND DESIST AND ORDER REVOKING LICENSE, ENTERED BY DEFAULT

On March 20, 2018, the Director of the Department of Consumer and Business Services for the State of Oregon ("the Director"), by and through the Division of Financial Regulation ("the Division"), properly served on Kimberly Spears ("Spears") an Order to Cease and Desist, Notice of Proposed License Revocation and Right to an Administrative Hearing ("Notice Order"), informing her that the Director intended to revoke her Oregon nonresident producer license ("license").

The Notice Order offered Spears an opportunity for a hearing, if requested in writing within 21 days. The Notice Order further informed Spears that if a hearing was not conducted because she did not timely request a hearing or otherwise defaulted, then the designated portion of the Division's file, which includes all materials Spears submitted, would automatically become part of the contested case record for the purpose of proving a *prima facie* case.

Spears has not made a written request for a contested hearing, and the time to do so has expired.

After considering the relevant portions of the Division's file in this matter, the Director finds that the record proves a *prima facie* case.

Now, therefore, the Director makes the following Findings of Fact and Conclusions of Law and issues the following Order.

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FINDINGS OF FACT

The Director FINDS that:

1. Spears is a licensed Kentucky resident insurance producer. Her NAIC National Producer Number is 18032155.

2. On or about October 18, 2016, Spears applied for an Oregon license.

3. As part of the application process, Spears submitted an application form to the Division of Financial Regulation ("the Division") indicating that she had been convicted of or was currently charged with a misdemeanor and a felony.

4. Certified court documents showed that Spears was convicted of the following crimes in Kentucky:

A. Misdemeanor Theft By Deception – Including Cold Checks Under $300 on September 5, 1997;

B. Misdemeanor Theft By Deception – Including Cold Checks Under $300 on September 16, 1997;

C. Misdemeanor Theft By Deception – Including Cold Checks Under $300 on November 13, 2000;

D. Misdemeanor Theft By Deception – Including Cold Checks Under $300 on September 14, 2001; and

E. Felony Theft By Deception – Including Cold Checks Under $300 on October 16, 2001.

5. On or about October 28, 2016, the Division contacted Spears by e-mail and voice mail regarding her criminal history. Spears failed to respond to the Division.

6. On or about November 18, 2016, the Division closed Spears's license application and refunded her application fee.

7. On October 21, 2016, the Indiana Commissioner of Insurance issued an administrative order denying Spears's application for an Indiana insurance producer

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license. The denial was based on her felony and misdemeanor convictions in 2000 and 2001.

8. On July 21, 2016, the Indiana Commissioner of Insurance issued an administrative order denying Spears's second application for an Indiana insurance producer license. The denial was based on her felony and misdemeanor convictions in 2000 and 2001, as well as her failure to disclose that her previous Indiana license application had been denied.

9. On or about June 19, 2017, Spears submitted a second application for an Oregon license. This time, she failed to disclose in her license application form that she had felony and misdemeanor convictions. She also failed to disclose that she had been the subject of an administrative proceeding in Indiana.

10. On or about June 19, 2017, the Division mistakenly granted Spears an Oregon license.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

11. Spears's representation in her second application for an Oregon license that she had no felony or misdemeanor convictions was incorrect, misleading, incomplete or materially untrue.

12. Spears's representation in her second application for an Oregon license that she had not been named or involved as a party in an administrative proceeding was incorrect, misleading, incomplete or materially untrue.

13. ORS 744.074(1)(a) authorizes the Director to revoke Spears's Oregon license for providing incorrect, misleading, incomplete or materially untrue information in her second application for an Oregon license.

14. By filing an application known to be false or misleading, Spears violated ORS 731.260.

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15. ORS 744.074(1)(b) authorizes the Director to revoke Spears's Oregon license for violating ORS 731.260.

16. Misdemeanor Theft By Deception – Including Cold Checks Under $300 is a misdemeanor involving dishonesty or breach of trust.

17. ORS 744.074(1)(f) authorizes the Director to revoke Spears's Oregon license for having been convicted of a misdemeanor involving dishonesty or breach of trust.

18. ORS 744.074(1)(f) authorizes the Director to revoke Spears's Oregon license for having been convicted of a felony.

19. ORS 744.074(1)(n) authorizes the Director to revoke Spears's Oregon license because it had been issued to her in error.

20. Because the Director has reason to believe that Spears has engaged in a violation of the Insurance Code, the Director may order Spears to cease and desist from such violation, as authorized by ORS 731.252(1).

ORDER

Now therefore, the Director issues the following Order:

21. As authorized by ORS 731.252(1), the Director ORDERS Spears to CEASE AND DESIST from violating any provision of the Insurance Code or the administrative rules promulgated thereunder.

22. Pursuant to ORS 744.074(1)(a), (b), (f), and (n) the Director hereby REVOKES Spears's license.

SO ORDERED this 16th day of April, 2018.

CAMERON C. SMITH, Director
Department of Consumer and Business Services

/s/ Dorothy Bean
Dorothy Bean, Chief of Enforcement
Division of Financial Regulation

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NOTICE OF RIGHT TO JUDICIAL APPEAL

You are entitled to judicial review of this order in accordance with ORS 183.482. You may request judicial review by filing a petition with the Court of Appeals in Salem, Oregon, within 60 days from the date this order is served.

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