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

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| In the Matter of:<br><br>BENJAMIN H. OMLID dba HEALTH OPTIONS INSURANCE, an Individual,<br><br>Respondent. | Case No. INS-19-0062<br><br>ORDER TO CEASE AND DESIST, ORDER SUSPENDING AND CONDITIONING LICENSE, ORDER ASSESSING CIVIL PENALTY, AND CONSENT TO ENTRY OF ORDER |

The Director of the Department of Consumer and Business Services for the State of Oregon ("Director"), acting in accordance with Oregon Revised Statutes ("ORS") chapters 731, 732, 733, 734, 735, 737, 742, 743, 743A, 743B, 744, 746, 748 and 750 ("Insurance Code"), conducted an investigation into the activities of Benjamin H. Omlid dba Health Options Insurance ("Respondent") and determined that Respondent engaged in activities constituting violations of the Insurance Code.

Respondent wishes to resolve and settle this matter with the Director.

Now, therefore, as evidenced by the authorized signature subscribed on this Order, Respondent hereby CONSENTS to entry of this Order upon the Director's Findings of Fact and Conclusions of Law as stated hereinafter.

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350 Winter Street NE, Suite 410
Salem, OR 97301-3881
Telephone: (503) 378-4387

## FINDINGS OF FACT

The Director FINDS that:

1. On January 1, 2011, Respondent was issued an Oregon resident insurance producer license ("License"). Respondent's national producer number is 8979455.

2. At all relevant times, Respondent employed Tomas E. Pedraza ("Pedraza") to assist with his insurance business.[1] Pedraza has been involved in every aspect of

[1] Pedraza's national producer number is 16871299. See related Division of Financial Regulation ("Division") case number INS-19-0063 against Pedraza.

Respondent's business, including underwriting and payroll.

3. At no relevant time did Respondent meaningfully supervise Pedraza. For example, he neither reviewed Pedraza's work nor asked him about it.

**Foresters Financial**

4. In or around 2017 and 2018, Respondent was appointed with Foresters Financial ("Foresters") as an insurance agent.

5. From on or around September 18, 2017 through on or around June 7, 2018, Pedraza, acting on Respondent's behalf, submitted at least 27 applications for Foresters insurance policies (the "Foresters Applications") on behalf of 24 individuals (the "Foresters Applicants"). The Foresters Applicants are identified as follows:

| Forester Applicant | Approximate Application Date | Applications with False Information/Signatures |
|---|---|---|
| DB | 6/7/18 | X |
| MB | 2/14/18 | |
| JC | 4/26/18 | X |
| ED | 3/14/18 | X |
| DG | 3/16/18 | X |
| AH | 4/18/18 | X |
| JK | 4/20/18 | X |
| RK | 9/18/17 and 9/25/17 | |
| ML | 4/23/18 | |
| GL | 3/30/18 | |
| Je. M | 5/14/18 | X |
| Jo. M | 5/14/18 | X |
| CM | 6/1/18 | X |
| AO | 4/25/18 | |
| JO | 4/28/18 | |
| Da. R | 3/27/18 | X |
| De. R | 3/27/18 | X |
| ER | 5/9/18 | |
| PS | 4/26/18 | X |
| St. S | 6/5/18 | X |
| Ke. W | 5/7/18 and 5/9/18 | X |
| SW | 5/7/18 and 5/9/18 | X |
| Ka. W | 4/17/18 | |
| DW | 4/6/18 | |

6. At the time Pedraza submitted the Foresters Applications, each of the Foresters Applicants held an equivalent insurance policy with Phoenix – A Nassau Re Company

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("Phoenix") that Respondent had sold to them.

7. From on or around March 14, 2018 through on or around June 7, 2018, Pedraza, acting on Respondent's behalf, submitted 17 Foresters Applications in which he:

A. Forged Respondent's name;

B. Falsely certified that Respondent had taken the applications; and

C. Falsely certified that the Foresters Applicants did *not* have existing policies and the requested policies would *not* be replacing existing policy coverage. Pedraza did this to circumvent:

(a) The suitability analysis a new carrier would undertake for a replacement policy; and

(b) The notification a new carrier would give the previous carrier to provide them the opportunity to keep the consumer's business.

8. On the Foresters Applications he submitted for DG, CM, Da. R and De. R, Pedraza, acting on Respondent's behalf:

A. Forged the electronic signature of each applicant;

B. Inserted fictitious e-mail addresses for each applicant; and

C. Submitted each application without the applicant's knowledge or consent.

9. In or around June 2018, Foresters informed Respondent that Da. R and De. R's policy applications had been submitted without their knowledge or consent, and contained false information. Shortly thereafter, Respondent told Foresters he had double-checked all his existing and pending Foresters policies and had no further issues to report. He declined to notify Foresters of any of the foregoing issues relating to the Foresters Applications.

10. On or around July 20, 2018, Foresters terminated Respondent's appointment.

11. As of January 15, 2019, the Foresters Applications had yielded 21 insurance policies, for which Respondent earned approximately $21,518.07 in commissions.

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**Phoenix – A Nassau Re Company**

12. Respondent was appointed with Phoenix – A Nassau Re Company ("Phoenix") as an insurance agent until on or around August 3, 2017, at which time Phoenix terminated the appointment.[2]

13. At the time his Phoenix appointment was terminated, Respondent was the producer of record for dozens of Phoenix's insurance policyholders.

14. From on or around January 17, 2018 through on or around June 15, 2018, Pedraza, acting on Respondent's behalf, contacted Phoenix and impersonated 36 of Respondent's former Phoenix clients (the "Phoenix Clients") in order to cancel their insurance policies without their knowledge or consent. The Phoenix Clients include each of the Foresters Applicants and are identified as follows:

| **Phoenix Client** | **Approximate Cancellation Request Date** |
|---|---|
| DB | 6/13/18 |
| MB | 3/5/18 |
| JC | 5/7/18 |
| KC | 5/8/18 |
| DD | 5/22/18 |
| ED | 3/21/18 |
| DG | 4/3/18 |
| VG | 6/7/18 |
| AH | 5/8/18 |
| JK | 5/29/18 |
| MK | 5/23/18 |
| RK | 1/17/18 and 3/16/18 |
| ML | 5/23/18 |
| GL | 4/5/18 |
| Je. M | 6/7/18 |
| Jo. M | 6/7/18 |
| MM | 2/14/18 |
| CM | 6/6/18 |
| AO | 5/3/18 |
| JO | 5/3/18 |
| RP | 4/26/18 |
| LP | 5/17/18 |
| CP | 2/21/18 |
| ER | 5/23/18 |

[2] The termination resulted from a complaint alleging that Respondent had falsely told a consumer that a competing insurer was "going out of business."

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| Phoenix Client | Approximate Cancellation Request Date |
|---|---|
| Da. R | 4/4/18 |
| De. R | 4/4/18 |
| Sa. S | 6/15/18 |
| PS | 5/10/18 |
| MS | 6/11/18 |
| St. S | 6/7/18 |
| Ke. W | 5/10/18 |
| SW | 5/17/18 |
| HW | 5/3/18 (Twice) |
| Ka. W | 5/3/18 |
| DW | 4/10/18 |
| JW | 6/6/18 |

15. Pedraza, acting on Respondent's behalf, falsely told the Phoenix Clients their Phoenix policies were being "updated" and "automatically transferred" to Foresters, and that Foresters was Phoenix's parent company.

16. Pedraza impersonated the Phoenix Clients, cancelled their insurance policies, and provided them with the foregoing false information to expedite the sale of new insurance policies to the Foresters Applicants, for which Respondent received the foregoing commissions.[3]

**United of Omaha Life Insurance Company**

17. Respondent was appointed with United of Omaha Life Insurance Company ("Omaha") as an insurance agent until on or around January 4, 2018, at which time Omaha terminated the appointment.

18. From on or around September 15, 2017 though on or around December 13, 2017, Respondent, or someone acting on his behalf, submitted Omaha insurance policy applications for Oregon residents JD, VL, MB and RB ("Omaha Applications") for the purpose of obtaining commissions.

19. Respondent signed the JD and VL applications and certified he had conducted

[3] Respondent continues to employ Pedraza as his assistant. Pedraza's duties still include customer communication and policy cancellation.

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in-person interviews with each of them.

20. Respondent did not interview JD and/or VL. The interviews were conducted by James Sheffield ("Sheffield"),[4] an independent contractor working on Respondent's behalf. Furthermore, Sheffield conducted the JD and VL interviews over the phone.

21. Respondent completed and signed the MB application. In the application, Respondent denied that MB had been convicted of possession of unlawful drugs within the previous ten years. In fact, MB had been convicted of misdemeanor marijuana possession within the previous ten years.

22. Respondent did not ask MB about his criminal history prior to completing, signing, and submitting his application.

23. Respondent completed and signed the RB application. In the application, Respondent denied that RB would engage in rock climbing over the next two years. In fact, RB had a history of rock climbing and intended to continue rock climbing.

24. Respondent did not ask RB about rock climbing prior to completing, signing, and submitting his application.

## CONCLUSIONS OF LAW

The Director CONCLUDES that:

25. By failing to supervise Pedraza, and directing and/or allowing Pedraza to submit the Foresters Applications and impersonate the Phoenix Clients as set forth in Paragraphs (7) – (8) and (14) – (15) on his behalf, Respondent demonstrated incompetence, untrustworthiness and financial irresponsibility in the conduct of his business and the Director may suspend his License under ORS 744.074(1)(h).

26. By performing the activities set forth in Paragraphs (19) – (24), Respondent made false statements and representations in each of the Omaha Applications, in violation of ORS 746.100.

[4] On December 1, 2017, Sheffield was issued an Oregon resident insurance producer license.

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27. Because the Director has reason to believe that Respondent has been engaged, is engaging, or is about to engage in violations of the Insurance Code, the Director may issue an order to Respondent to cease and desist, pursuant to ORS 731.252(1).

28. Under ORS 731.988(1), the Director may impose a civil penalty of up to $1,000 *per violation* upon any person who violates a provision of the Insurance Code.

29. Under ORS 731.988(2), in addition to the penalty specified in subsection (1), the Director may require a person that violates a provision of the Insurance Code to pay a civil penalty of up to the amount by which the person profited in any transaction that violated the provision.

ORDERS

Now therefore, the Director issues the following Orders:

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

31. As authorized by ORS 744.074(1)(h), the Director hereby SUSPENDS Respondent's License FOR ONE YEAR, beginning the date this Order is fully executed.

32. During the suspension period, Respondent shall perform the actions required to maintain his License, including satisfying any applicable fee, filing, or continuing education requirements.

33. Respondent shall complete four hours of continuing education ethics training. This shall be in addition to any ethics-based continuing education training required to maintain Respondent's License. Any ethics-based continuing education training that would fulfill Respondent's License obligations is eligible to satisfy this condition. Respondent shall submit proof of completion within one year of the date this Order is fully executed. Proof shall be submitted to the Division at 350 Winter St NE, Room 410, Salem OR 97301 or DFR.ReportEnforcement@Oregon.gov.

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34. Upon the completion of Respondent's License suspension, the Division shall issue Respondent a Conditional License for a period of ONE YEAR. The Conditional License will authorize Respondent to perform all the activities he can perform under his License. While he holds the Conditional License, Respondent will provide the Division with monthly reports which identify:

A. The insurance policies he sold that month;

B. The people to whom he sold the policies, including their address; and

C. The commissions he received pursuant to such sales.

35. While he holds the Conditional License, Respondent shall be PROHIBITED from supervising anyone licensed under the Insurance Code. Furthermore, Respondent shall NOT PERMIT anyone to perform activities regulated by the Insurance Code under Respondent's name.

36. As authorized by ORS 731.988(1), the Director hereby ORDERS that Respondent be subject to a CIVIL PENALTY of $14,000 as follows:

A. $10,000 for violating ORS 744.074(1)(h); and

B. $4,000 for violating OAR 746.100.

37. As authorized by ORS 731.988(2), the Director hereby ORDERS that Respondent be subject to a CIVIL PENALTY of $21,518.07, the amount he profited from the Foresters Applications that violated ORS 744.074(1)(h).

38. The Director hereby suspends payment of $30,518.07 of the CIVIL PENALTY for a period of three years, provided Respondent:

A. Complies with the terms of this Order; and

B. Does not violate the Insurance Code within the three-year time period.

39. The non-suspended CIVIL PENALTY ($5,000) is due and payable as follows:

A. $400 at the time this Order is returned to the Director; and

B. $200 a month for 23 months thereafter. The first monthly payment shall

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be due on January 2, 2020 and subsequent payments shall be due on the first business day of each month.

40. The suspended CIVIL PENALTY ($30,518.07) will be waived three years from the date this Order is finalized, provided Respondent has complied with the foregoing Order terms. The Director reserves the right to immediately assess and collect the suspended civil penalty upon a determination that Respondent has violated any term of this Order.

41. This Order is binding upon Respondent's successors and assigns.

42. This Order is a "Final Order" under ORS 183.310(6)(b). Subject to that provision, the entry of this Order does not limit other remedies that are available to the Director under Oregon law.

SO ORDERED this 14th day of December, 2019.

LOUIS SAVAGE, Acting Director
Department of Consumer and Business Services

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

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## CONSENT TO ENTRY OF ORDER

I, Benjamin H. Omlid, state that I have read the foregoing Order and that I know and fully understand the contents hereof. I have been advised of my right to a hearing and of my right to be represented by counsel in this matter. I voluntarily consent to the entry of this Order without any force or duress, expressly waiving any right to a hearing in this matter, as well as any rights to administrative or judicial review of this Order. I understand that the Director reserves the right to take further actions against me to enforce this Order or to take appropriate action upon discovery of other violations of the Insurance Code by me. I will fully comply with the terms and conditions stated herein.

Signature: /s/ Benjamin Omlid

State of Nayarit

County of Mexico

Signed or attested before me on this 2nd day of December, 2019 by Benjamin Omlid.

/s/ Luis Miguel Castro Montero
Notary Public

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