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

In the Matter of: Timothy Richard Swander and TT&B, Inc. dba Alsea River Insurance Agency, Respondents.	Case No. INS-19-0016 FINAL ORDER TO CEASE AND DESIST, FINAL ORDER REVOKING LICENSE, ENTERED BY DEFAULT

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"), properly served a cease and desist order on Timothy Richard Swander ("Swander") and TT&B, Inc. dba Alsea River Insurance Agency ("TTB", collectively "Respondents") and served Notice that the Director intended to revoke the resident insurance producer licenses of Respondents.

The Notice offered Respondents an opportunity for a hearing, if requested within 20 days. The Notice further informed Respondents that if a hearing was not conducted because Respondents did not timely request a hearing or otherwise defaulted, then the designated portion of the Director's file and all materials submitted by Respondents 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 Respondents 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.

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The Director makes the following Findings of Fact, Conclusions of Law, Orders, and Notice of Right to Judicial Appeal.

FINDINGS OF FACT

The Director FINDS that:

1. Swander has been licensed as a resident insurance producer in the state of Oregon since January 17, 2001. Swander's national insurance producer number is 6265214.

2. TTB has been licensed as a resident insurance producer in the state of Oregon since April 12, 2000. TTB's national insurance producer number is 8057393.

3. Swander is the designated responsible licensed producer ("DRLP") for TTB.

4. On December 28, 2018, the Oregon Division of Financial Regulation's ("Division") consumer advocacy unit referred Swander to investigations for failing to respond to an inquiry regarding a consumer complaint.

5. On January 4, 2019, the Division attempted to reach Swander by telephone at numerous phone numbers but received no response and was unable to leave messages.

6. On the same day, the Division sent an email to tim@alseariver.com and alseariver@gmail.com, email addresses associated with Swander through State Based Systems ("SBS") and Consolidated Lead Evaluation and Reporting ("CLEAR"), requesting information and documents regarding the consumer complaint by January 25, 2019. The Division received a delivery failure email for the tim@alseariver.com email address.

7. On the same day, the Division sent certified and first class letters to all known addresses of Respondents with a copy of the complaint and request for a response no later than January 25, 2019.

8. On January 14, 2019, the first class letter that had been sent to Swander's home address was returned to the Division with a notice stating "no mail receptacle."

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9. On February 4, 2019, the certified letters that had been sent to Swander's home address and post office box were returned to the Division as unclaimed.

10. On February 19, 2019, the first class letter sent to Swander's post office box was returned to the Division stating that the post office box was vacant.

11. A search revealed that Swander had been arrested for Driving Under the Influence, a misdemeanor crime, on November 3, 2016. Swander was convicted on May 8, 2017. Swander has not notified the Division of the criminal prosecution.

12. Swander has not replied to the Division's multiple attempts to reach him.

CONCLUSIONS OF LAW

The Director CONCLUDES that:

13. Pursuant to ORS 731.252(1), whenever the Director has reason to believe that any person has been engaged or is engaging or is about to engage in any violation of the Insurance Code, the Director may issue an order to discontinue or desist from such violation or threatened violation.

14. Pursuant to ORS 731.296, the Director may address any proper inquiries to any insurer, licensee or its officers in relation to its activities or condition or any other matter connected with its transactions. Any such person so addressed shall promptly and truthfully reply to such inquiries using the form of communication requested by the Director. Respondents failed to respond to inquiries by the Director, in violation of ORS 731.296.

15. Pursuant to ORS 744.074(3), the Director may suspend, revoke or refuse to issue or renew the insurance producer license of a business entity if the Director determines that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting on behalf of the partnership or corporation but the violation was not reported to the Director and corrective action was not taken. The officers of TTB knew or should have known that Swander was violating

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the Insurance Code and failed to report it to the Director.

16. Pursuant to ORS 744.089(2), an insurance producer shall report to the Director any criminal prosecution of the insurance producer taken in any jurisdiction no later than the 30th day after the initial pretrial hearing date. Swander failed to notify the Director of the criminal prosecution within 30 days of the initial pretrial hearing date in November 2016.

17. Pursuant to ORS 744.074(1)(b), the Director may revoke or refuse to issue or renew an insurance producer license for violating any insurance laws, or violating any rule, subpoena or order of the director. Swander violated ORS 744.089(2). Respondents violated ORS 731.296.

ORDERS

Now therefore, the Director issues the following Orders:

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

19. The Director, pursuant to ORS 744.074(1)(b) and 744.074(3), hereby REVOKES TTB's resident insurance producer license.

20. The Director, pursuant to ORS 744.074(1)(b), hereby REVOKES Swander's resident insurance producer license.

SO ORDERED this 27th day of March, 2019 in Salem, Oregon.

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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