

40077902, is licensed by the State of Oklahoma as a resident insurance producer as defined and required by *36 O.S. § 1435.2(7)*. Her address of record is 4300 Rimridge Road, Edmond, Oklahoma 73025.

4. The Insurance Commissioner has jurisdiction over the subject matter raised in this dispute and may issue penalties pursuant to *36 O.S. § 1435.13(A) and (D)*.

5. Pursuant to *36 O.S. § 1435.13(D)*, in addition to or in lieu of any applicable denial, probation, censure, suspension or revocation of a license, a person may, after opportunity for hearing, be subject to a civil fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each occurrence. The penalty may be enforced in the same manner in which civil judgments may be enforced.

6. If Respondent requests a hearing in writing in this matter, pursuant to *OAC 365:1-7-1*, the Insurance Commissioner, pursuant to *36 O.S. § 319*, will appoint an independent hearing examiner who shall sit as a quasi-judicial officer and preside over the hearing requested by Respondent.

FINDINGS OF FACT

7. On or about October 12, 2020, the Anti-Fraud Unit of the Oklahoma Insurance Department received a complaint from Massachusetts Mutual Life Insurance Company (“Mass Mutual”) involving an investigation into Respondents for securities violations and client policy manipulation. The Oklahoma Insurance Department assigned Investigator Jon Huntington (“Investigator Huntington”) to the case.

8. On or about January 26, 2021, Investigator Huntington interviewed victim Clint Malley (“Mr. Malley”). In October of 2019, Mr. Malley was approached by Respondent B. Berry about a Whole Life Policy. Malley signed up for the Whole Life Legacy 20 Pay policy through Respondent

B. Berry. The premiums for this policy were \$508.00 and paid monthly from Mr. Malley's Mass Mutual Roth IRA account. Mr. Malley initially expressed concern to Respondent B. Berry about the potential tax penalties of withdrawals from his Mass Mutual Roth IRA at his then age of 50. Respondent B. Berry informed Mr. Malley that he had spoken to knowledgeable people at Mass Mutual and advised there would be no tax penalties. As a result of the premium withdrawals, Mr. Malley did receive tax penalties in the amount of five thousand one hundred twenty-five dollars and forty cent. (\$5,125.40). Based on discussions and additional contacts with Mass Mutual, the payments were stopped for Mr. Malley's whole life policy, and he was reimbursed the total amount deducted from his Roth IRA. Mass Mutual terminated Respondent B. Berry and A. Berry for cause.

9. As a result of the above conduct, the Oklahoma Department of Securities ("ODS") opened an investigation into Respondent A. Berry. Respondent B. Berry has never been registered in any capacity under any Oklahoma securities laws. Throughout the investigation, ODS discovered:

- a. The Respondents formed Icon Financial Group, LLC ("Icon") on April 5, 2018. On April 6, 2018, the Respondents opened a bank account for Icon.
- b. At least four (4) securities clients withdrew funds from their securities accounts and made payments to Icon at the Respondents' direction. The deposits into the Icon bank account from clients totaled over \$347,000. An insurance client of the Respondents, who did not have a securities account, liquidated a fixed annuity and paid \$280,000 to Icon.

10. On or about February 3, 2021, ODS filed administrative proceedings against A. Berry for securities violations, some of which involved her insurance clients (ODS file 21-030). On April 30, 2021 ODS issued the Final Order against Respondent A. Berry finding that she willfully

engaged in fraud and unethical practices by falsifying account records and improperly using customer funds. Respondent A. Berry was barred from any further securities actions and registration.

11. Pursuant to the provisions of *36 O.S. §1435.13(A)*, the Insurance Commissioner may place on probation, censure, suspend, revoke or refuse to issue or renew a license issued pursuant to the Oklahoma Producer Licensing Act or may levy a civil penalty in accordance with subsection D of this section or any combination of actions, for any one or more of the following causes:

- a. Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business;
- b. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
- c. Using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

12. In addition to or in lieu of any applicable denial, probation, censure, suspension or revocation of a license, a person may, after opportunity for hearing, be subject to a civil fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each occurrence. Said penalty may be enforced in the same manner in which civil judgments may be enforced.

13. Pursuant to *36 O.S. §1435.13(F)*, *“The Insurance Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Oklahoma Producer Licensing Act and this title against any person who is under investigation for or charged*

with a violation of the Oklahoma Producer Licensing Act or this title even if the person's license or registration has been surrendered or has lapsed by operation of law."

CONCLUSIONS OF LAW

14. Respondent B. Berry has violated 36 O.S. §1435.13(A)(5) and §1435.13(A)(8) by intentionally misrepresenting the terms of an insurance contract by informing Mr. Malley that the withdraws from his Roth IRA for premium payments would not result in tax penalties.

15. Respondent A. Berry has violated 36 O.S. §1435.13(A)(4) and §1435.13(A)(8) by directing securities and insurance clients to withdraw funds from their securities accounts and make payments to Icon.

ORDER

IT IS THEREFORE ORDERED that Respondents are both **CENSURED** and **FINED** Five Thousand Dollars (\$5,000.00). The fine shall be paid within 30 days of the date of this Conditional Administrative Order and made payable to the Oklahoma Insurance Department. The fine shall be sent to the Oklahoma Insurance Department located at 400 NE 50th Street, Oklahoma City, Oklahoma 73105. Failure to comply with a proper order of the Commissioner will result in further administrative action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner that this Order is a Conditional Order. Unless Respondents request a hearing with respect to the Findings of Fact set forth above within 30 days of the date of this Conditional Order, the penalties set forth above will become a Final Order on the 31st day following the date of mailing this Order. A request for hearing should be in writing and addressed to Antuanya "Bo" DeBose, Oklahoma Insurance Department, Legal Division, 400 NE 50th Street, Oklahoma City,

Oklahoma 73105. The request for hearing must state the grounds for the request to set aside or modify the Order and must be served on the Oklahoma Insurance Department within the 30 days allotted. The proceedings on such requested hearing will be conducted in accordance with the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq., and the *Oklahoma Administrative Procedures Act*, 75 O.S. §§ 250 through 324. If Respondents serve a timely request for hearing on the Oklahoma Insurance Department, this Conditional Order will act as a notice of the matters to be reviewed at the hearing and the Findings of Fact, Conclusions of Law, and penalties imposed in this Conditional Order shall be considered withdrawn, pending final resolution at the hearing.

WITNESS My Hand and Official Seal this 13th day of June 2022

GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAHOMA



Antuanya "Bo" DeBose
Assistant General Counsel
Oklahoma Insurance Department
400 NE 50th Street
Oklahoma City, Oklahoma, 73105
Tel. (405) 521-2746
Fax (405) 522-0125
Bo.debose@oid.ok.gov

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing *Conditional Order* was mailed by regular mail and by certified mail, with postage prepaid and return receipt requested, on this 13th day of June, 2022, to:

Brian and Amanda Berry
2850 Channel View Drive
Little Torch Key, FL 33042

CERTIFIED MAIL NO:
9214 8902 0982 7500 0471 40

Brian and Amanda Berry
4300 Rimridge Road
Edmond, Oklahoma 73025-2900

CERTIFIED MAIL NO:
9214 8902 0982 7500 0471 57

and a copy was delivered to:

Licensing & Anti-Fraud Division



Antuanya "Bo" DeBose
Assistant General Counsel



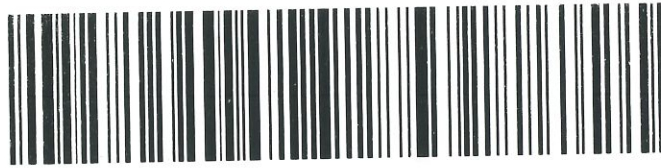
**OKLAHOMA
INSURANCE
DEPARTMENT**

Legal Division
Insurance Commissioner Glen Mulr
400 NE 50th St.
Oklahoma City, OK 73105

28502

CERTIFIED MAIL

USPS CERTIFIED MAIL



9214 8902 0982 7500 0471 40

BRIAN AND AMANDA BERRY
2850 CHANNEL VIEW DRIVE
LITTLE TORCH KEY, FL 33042

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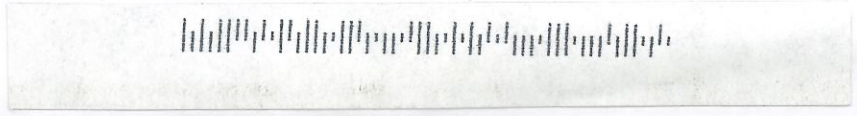
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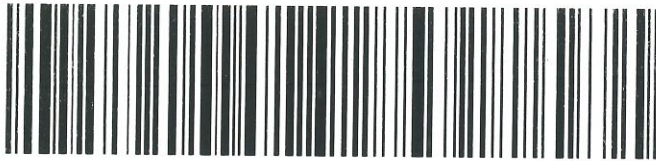


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Legal Division
Insurance Commissioner Glen
400 NE 50th St.
Oklahoma City, OK 73105



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