

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED

MAY 10 2023

STATE OF OKLAHOMA, ex rel. GLEN)
MULREADY, Insurance Commissioner,)
)
Petitioner,)
)
v.)
)
KIMBERLY A. FETGATTER, a resident)
insurance producer in the State of Oklahoma,)
)
Respondent.)

**INSURANCE COMMISSIONER
OKLAHOMA**

Case No. 23-0261-DIS

**CONDITIONAL ADMINISTRATIVE ORDER
AND NOTICE OF RIGHT TO BE HEARD**

COMES NOW the State of Oklahoma, ex. rel. Glen Mulready, Insurance Commissioner,
by and through counsel, Nicole M. Nash, and alleges and states as follows:

JURISDICTION

1. Glen Mulready is the Insurance Commissioner of the State of Oklahoma and, as such, is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 – 7402.
2. Respondent Kimberly A. Fetgatter (“Respondent”) holds an inactive resident producer license in the State of Oklahoma, license number 107895. Respondent’s address of record is 417 S Seminole Ave., Okmulgee, OK 74447-4931.
3. The Insurance Commissioner has jurisdiction over the subject matter raised in this dispute, and may suspend, revoke, or refuse to issue or renew a license, and may assess civil fines of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) per occurrence against insurance producers pursuant to 36 O.S. § 1435.13(A) and (D).

4. If Respondent requests a hearing in writing 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

5. Respondent was first licensed as a producer in the State of Oklahoma on or around February 1, 2006.

6. On or around November 5, 2007, Respondent entered into a consent order with the Oklahoma Insurance Commissioner and paid a fine of \$200.00 for failing to respond timely to two (2) inquiries from the Oklahoma Insurance Department (“OID”) in violation of 36 O.S. § 1250.4(B). The case number for that administrative action is 07-1180-DIS.

7. On or around October 29, 2013, Respondent submitted an application to renew her resident producer license and answered “No” to the following question: “Have you ever been named or involved as a party in an administrative proceeding including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?”

8. On or around November 12, 2013, the Oklahoma Insurance Commissioner issued a Conditional Administrative Order and Notice of Right to be Heard against Respondent and fined Respondent \$300.00 for answering “No,” finding that Respondent failed to properly disclose administrative action 07-1180-DIS on the renewal application in violation of 36 O.S. § 1435.13(A)(1). The case number for that administrative action is 13-1127-DEN.

9. The Conditional Order in administrative action 13-1127-DEN is a final order. Respondent did not request a hearing in that administrative action and paid the fine on November 14, 2013.

10. On or around October 4, 2017, Respondent submitted an application to renew her producer license. In response to the question of whether Respondent had ever been named or involved as a party to an administrative action, Respondent answered “Yes.”

11. Respondent’s resident producer license expired on or around September 30, 2019.

12. On or around March 31, 2023, Respondent submitted an application to reactivate her Oklahoma resident producer license. The “Background Questions” section states the following:

The Applicant must read the following very carefully and answer each question ... 2. Have you ever been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?

“Involved” means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation, sanctioned or surrendering a license to resolve an administrative action. “Involved” also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license, or registration. “Involved” also means having a license, or registration application denied or the act of withdrawing an application to avoid a denial. INCLUDE any business so named because of your actions in your capacity as owner, partner, officer or director, or member or manager of a Limited Liability Company. You may EXCLUDE terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee.

13. Respondent incorrectly answered “No” to the above background question and failed to properly disclose and upload copies of the final orders for both administrative actions 07-1180-DIS and 13-1127-DEN.

14. In April 2023, OID notified Respondent that the administrative actions were not disclosed on the application and directed Respondent to submit a written statement explaining the reason why the actions were not disclosed. Respondent submitted the following statement, in relevant part: “Due to the length of time that had passed since the occurrence, when filling out my application I checked the box incorrectly. This was not intentional but inadvertent. I apologize for the mistake. Thank you for your assistance in this matter.”

CONCLUSIONS OF LAW

15. Respondent violated 36 O.S. § 1435.13(A)(1) by providing incorrect, misleading, incomplete, or materially untrue information in the license application.

16. This is the second time Respondent has violated 36 O.S. § 1435.13(A)(1) by stating in an application that Respondent has no prior administrative actions.

17. Pursuant to 36 O.S. § 1435.13(A) and (D), the Insurance Commissioner may issue an administrative penalty, including a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) per occurrence, for this violation.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Insurance Commissioner that Kimberly A. Fetgatter violated 36 O.S. § 1435.13(A)(1) and as a result is FINED in the amount of FIVE HUNDRED DOLLARS (\$500.00). The Fine shall be paid within thirty (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 Insurance Commissioner may result in further administrative action.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Insurance Commissioner that this Order is a Conditional Order. Unless the Respondent requests a hearing with respect to the Findings of Fact set forth above within thirty (30) days of the date of mailing of this Order, this Order and the penalties set forth above will become a Final Order on the thirty-first (31st) day following the date of mailing this Order. A request for hearing should be in writing addressed to Nicole M. Nash, Oklahoma Insurance Department, Legal Division, 400 N.E. 50th

Street, Oklahoma City, Oklahoma 73105. The request for the hearing must state the grounds for the request to set aside or modify the Order.

Any such hearing will be conducted according to the procedures for contested cases under the Insurance Code and the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 – 323. If the Respondent serves a timely request for hearing on the Oklahoma Insurance Department, this Conditional Order will act as 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 will be considered withdrawn, pending final resolution at the hearing.

WITNESS My Hand and Official Seal this 10th day of May, 2023.



GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAOMA

Nicole Nash

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CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing Conditional Order was mailed via certified mail, with postage prepaid and return receipt requested, and emailed on this 11th day of May, 2023, to:

Kimberly A. Fetgatter
417 S Seminole Ave.,
Okmulgee, OK 74447-4931
kimfetgatter@gmail.com

CERTIFIED MAIL NO.
7017 1070 0001 1037 0203

and a copy was delivered to: OID Licensing Division



Nicole M. Nash
Assistant General Counsel