

BEFORE THE INSURANCE COMMISSIONER OF THE  
STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel. KIM HOLLAND, )  
Insurance Commissioner, )  
Petitioner, ) Case No. 06-1853-DIS  
v. )  
ALLEGHENY CASUALTY COMPANY, a licensed )  
Surety in the State of Oklahoma, )  
and )  
JUSTIN DOWELL, a licensed Bail Bondsman in the )  
State of Oklahoma, )  
Respondent. )

**FILED**

JAN 16 2008

INSURANCE COMMISSIONER  
OKLAHOMA

**ADMINISTRATIVE ORDER**

ON THE 28<sup>th</sup> day of November, 2007 the above numbered and entitled cause came on for hearing and was concluded on the same date. The Insurance Commissioner, Kim Holland, was represented by her attorney, Sandra G. LaVenue. Respondent Allegheny Casualty Company's representative, Jerry Dowell was present and was represented by counsel, Kristen Hartman after having been mailed a copy of the Notice of Hearing and Order to Show Cause by certified mail with return receipt requested to the last known address as provided by Respondent to the Insurance Commissioner pursuant to the Oklahoma Bail Bond Code, OKLA. STAT. tit. 59, §§1301-1340, and the Oklahoma Administrative Procedures Act, OKLA. STAT. tit. 75, §§250-323. Respondent Richard Chesney failed to appear in person after having been mailed a copy of the Notice of Hearing and Order to Show Cause by certified mail with return receipt requested to the last known address as provided by Respondent to the Insurance Commissioner pursuant to the Oklahoma Bail Bond Code, OKLA. STAT. tit. 59, §§1301-1340, and the Oklahoma Administrative Procedures Act, OKLA. STAT. tit. 75, §§250-323.

The Hearing Examiner, having been fully advised in the premises, finds by clear and convincing evidence as follows:

## **JURISDICTION AND AUTHORITY**

1. That the Insurance Commissioner has jurisdiction of this cause, pursuant to the provisions of the Oklahoma Bail Bond Code, OKLA. STAT. tit. 59, §§1301-1340.
2. Respondent Allegheny Casualty Company is a licensed surety in the State of Oklahoma holding license number 0162.
3. Respondent Justin Dowell is a licensed bail bondsman in the State of Oklahoma holding license number 800352/ 199997.

## **FINDINGS OF FACT**

1. That on or about November 27, 2006, Petitioner, through her attorney, caused to be mailed a *Notice of Hearing and Order to Show Cause* to Respondents at their addresses of record.
2. That the *Notice of Hearing and Order to Show Cause* each contained statements of jurisdiction, allegations of fact, alleged violations of law and an order setting each the proceedings for February 21, 2007, at 9:30 a.m. at the office of the Insurance Commissioner, 2401 N.W. 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107.
3. That the Insurance Commissioner appointed Leslie L. Conner, Jr. to hear the case as the independent Hearing Examiner and he entered these findings and conclusions.
4. This matter was originally scheduled for a hearing on February 21, 2007 at the offices of the Insurance Commissioner, 2401 NW 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107.
5. On or about February 27, 2007, this matter was continued to March 21, 2007.
6. Don Jackson entered an appearance on February 20, 2007 for both Respondents.
7. On May 25, 2007, Petitioner dismissed without prejudice the matter as the bond

forfeiture was exonerated on April 25, 2007.

8. Petitioner received new information regarding the exoneration issued by the Court on April 25, 2007. As a result, a new Notice of Hearing and Order to Show Cause was issued on September 10, 2007. This *Notice of Hearing and Order to Show Cause* each contained statements of jurisdiction, allegations of fact, alleged violations of law and an order setting each the proceedings for September 19, 2007, at 9:30 a.m. at the office of the Insurance Commissioner, 2401 N.W. 23<sup>rd</sup> Street, Suite 28, Oklahoma City, Oklahoma 73107.

9. On or about September 26, 2007, this matter was continued to October 17, 2007.

10. On or about October 29, 2007, this matter was continued to November 28, 2007.

11. The Hearing was recorded electronically by employees of the Oklahoma Insurance Department. Neither party requested a full stenographic record of the proceedings.

12. The following exhibits were introduced and admitted without objection:

Exhibit 1: (1 page) Copy of Order Exonerating Bond filed in Oklahoma County District court in case number CM-2006-1253, State v. Amy Owen.

13. Both parties agreed to stipulate to the facts as stated in the September 10, 2007 Notice of Hearing and Order to Show Cause. The facts are as follows:

a. An appearance bond was issued as follows:

DEFENDANT:	Amy Owen
CASE NUMBER:	CM-2006-1253
CITY/COUNTY:	Oklahoma County
BONDSMAN:	Justin Dowell
INSURER:	Allegheny Casualty Company
POWER NUMBER:	XA-946563
BOND AMOUNT:	\$1,000.00

b. That on or about July 20, 2006, the bond was forfeited and an Order and Judgment of Forfeiture was issued.

c. The Defendant was not returned to custody within ninety (90) days nor were the forfeitures paid within ninety-one (91) days.

d. On or about April 25, 2007, the Court issued an Order Exonerating Bond. Said Order states "Defendant was returned to custody on November 27, 2006." In addition, it states "Defendant paid the forfeiture out of time on March 6, 2007." Furthermore, it states "That Bondsman waives all claims to a remitter for this payment."

e. The Court did not set aside or vacate the Order and Judgment of Forfeiture.

14. Respondent failed to return the defendant to custody within ninety (90) days or pay the Order and Judgment of Forfeiture within ninety-one (91) days. The bond was later exonerated. However, the Order and Judgment of Forfeiture was neither vacated nor set aside. As a result, the Order Exonerating Bond does not vacate the Order and Judgment of Forfeiture.

#### **CONCLUSIONS OF LAW**

1. These proceedings were commenced in accordance with and conducted pursuant to the applicable provisions of the Oklahoma Administrative Procedures Act, OKLA. STAT. tit. 75, §§ 250-323, as amended, and the Oklahoma Bail Bond Code, OKLA. STAT. tit. 59, §§ 1301-1340 as amended.

2. The Commissioner has jurisdiction to conduct this hearing as the Respondents are licensed bail bondsmen pursuant to OKLA. STAT. tit. 59, §§ 1301-1340, as amended.

3. The Respondents were provided lawful service and adequate notice of the time and place of the hearing and were sufficiently advised of the allegations as required by OKLA. STAT. tit. 75, § 309, as amended and OKLA. STAT. tit. 59, § 1311, as amended.

4. The Independent Hearing Examiner was properly and legally appointed pursuant to OKLA. STAT. tit. 59, § 1311.1(B).

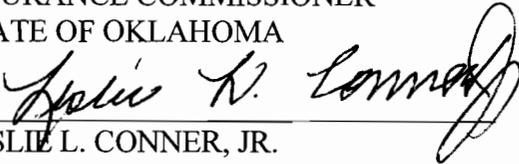
5. The Order Exonerating the Bond does not vacate the Order and Judgment of Forfeiture. In addition, the bond forfeiture was untimely paid. As a result, Respondents violated OKLA. STAT. tit. 59, § 1332(D) by failing to deposit cash or other valuable securities in the face amount of the bond with the Court Clerk ninety-one (91) days from receipt or mailing of the Order and Judgment of Forfeiture from the Court Clerk.

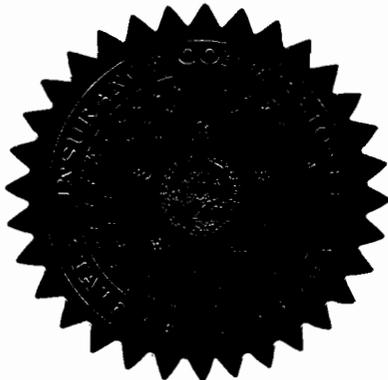
**ORDER**

1. IT IS THEREFORE ORDERED that Respondents are hereby **censured**.
2. IT IS FURTHER ORDERED that Respondents are assessed costs, jointly and severally, in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00). Costs are to be paid immediately.

WITNESS My Hand and Official Seal this 16 day of Jan, 2008.

KIM HOLLAND  
INSURANCE COMMISSIONER  
STATE OF OKLAHOMA

  
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LESLIE L. CONNER, JR.  
Hearing Examiner  
Post Office Box 53408  
Oklahoma City, Oklahoma 73152-3408  
(405) 521-2746



CERTIFICATE OF MAILING

I, Sandra G. LaVenue, hereby certify that a true and correct copy of the above and foregoing Administrative Order was mailed postage prepaid with return receipt requested on this 17 day of Jan, 2008, to:

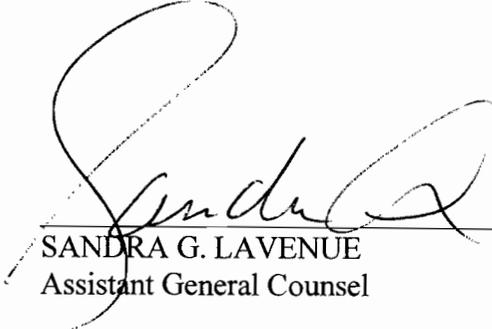
Kristen Hartman  
217 N. Harvey, Suite 105  
Oklahoma City, Oklahoma 73102  
Attorney for Respondents

and that a copy was mailed to:

Patricia Presley  
Oklahoma County Court Clerk  
320 Robert S. Kerr  
Oklahoma City, Oklahoma 73102

and that a copy was delivered to:

Robert H. Noll, Director  
Bail Bond Division

  
SANDRA G. LAVENUE  
Assistant General Counsel