

**BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA**

FILED

OCT 30 2008

INSURANCE COMMISSIONER
OKLAHOMA

**STATE OF OKLAHOMA, ex rel. KIM
HOLLAND, Insurance Commissioner,**)
)
)
Petitioner,)
)
v.)
)
**CHARLES TOPINKA, a licensed Insurance
Producer,**)
)
Respondent.)

Case No. 08-1530-DIS

ADMINISTRATIVE ORDER OF SUSPENSION INSTANTER

COMES NOW the State of Oklahoma, ex rel. Kim Holland, Insurance Commissioner, by and through her attorney Julie Delluomo, and alleges and states as follows:

JURISDICTION AND AUTHORITY

1. Kim Holland is the Insurance Commissioner of the State of Oklahoma and is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq.
2. Respondent is licensed by the State of Oklahoma as a resident insurance producer holding license number 171708. His address of record is 6000 Chestnut Court, Edmond, Oklahoma 73003.
3. The Insurance Commissioner may place on probation, censure, suspend, revoke or refuse to issue or renew a license issued pursuant to the Producer Licensing Act and/or may levy a civil penalty of \$100.00 to \$1,000.00 for each violation of the Producer Licensing Act. 36 O.S. § 1435.13(A).

4. If the Insurance Commissioner finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to the effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. 75 O.S. §§ 314(C)(2), 314,1, OAC 365:1-7-9(a).

FINDINGS OF FACT

1. Respondent Charles Topinka, a former Farm Bureau Life Insurance Company manager/producer, sold his mother, Charlotte Topinka, an annuity contract, #ORO513941, through Farm Bureau Life Insurance Company in 1993. The beneficiaries of the annuity contract were Respondent and his brother, Carl Topinka.

2. The annuity contract was for Ten (10) Year Certain and Life. Charlotte received a monthly annuity payment of \$182.31. The last payment would be made in 2003 or the date of Charlotte Topinka's death, whichever was later.

3. Respondent did not notify Farm Bureau Life Insurance Company of his mother's death in 1999. Farm Bureau sent a letter in 2005 to confirm that Charlotte Topinka was still living. Farm Bureau did not receive a response to this letter.

4. A recent audit of life contingent payment contracts by Farm Bureau uncovered that Charlotte Topinka died in 1999. Investigation revealed that Respondent received fifty-eight (58) annuity checks after his mother's death totaling \$10,573.98. Respondent endorsed the checks and deposited the checks into his bank account. Respondent then wrote a check for \$91.15 each month to his brother Carl.

5. Farm Bureau requested repayment of \$10,573.98 from Respondent on April 7, 2008. Respondent did not respond to the initial request but later repaid the full

amount after receiving a letter from Farm Bureau's Legal Department. Respondent retired in April 2008.

CONCLUSIONS OF LAW

Respondent has violated 36 O.S. § 1435.13(A)(8) by using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state.

ORDER

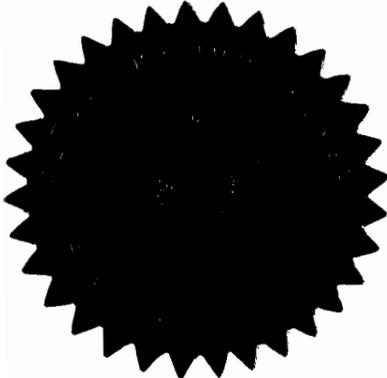
IT IS THEREFORE ORDERED by the Insurance Commissioner, subject to the following paragraph, that the Respondent violated 36 O.S. § 1435.13(A)(8) and has thereby placed the welfare of the public at risk. In accordance with 75 O.S. § 314(C)(2) and OAC § 365:1-7-9, Respondent's license is suspended effective immediately.

Respondent may request a hearing be held regarding this emergency action. OAC 365:1-7-9(a). Such request for hearing shall be received within thirty (30) days from the date of receipt of this order. A request for hearing shall be made in writing addressed to Julie Delluomo, Assistant General Counsel, Oklahoma Insurance Department, Post Office Box 53408, Oklahoma City, Oklahoma 73152-3408

If Respondent requests a hearing, the hearing shall be conducted within ten (10) days of receipt of the request. An independent hearing examiner shall conduct the hearing. Respondent may have a court reporter transcribe the proceedings and Respondent shall be responsible for the costs. If Respondent fails to request a hearing within the required period of time, Respondent's producer license shall be revoked thirty (30) days from the date of receipt of this order. OAC 365: 1-7-9.

WITNESS My Hand and Official Seal this 30th day of October, 2008.

KIM HOLLAND
INSURANCE COMMISSIONER
STATE OF OKLAHOMA



Julie Delluomo
Julie Delluomo

Assistant General Counsel
P.O. Box 53408
Oklahoma City, Oklahoma 73152-3408
Telephone: (405) 521-2746
Facsimile: (405) 522-0125

CERTIFICATE OF MAILING

I, Julie Delluomo, hereby certify that a true and correct copy of the above and foregoing Administrative Order of Suspension Instanter was mailed by certified mail with postage prepaid and return receipt requested on this 30th day of October, 2008, to:

Charles Topinka
6000 Chestnut Court
Edmond, OK 73003

CERTIFIED MAIL NO. 7006 0810 0002 6163 7191

and that notification was sent to:

NAIC/RIRS

and that a copy was mailed to:

All Appointing Insurers

and that a copy was delivered to:

Leah Scoles
Agents Licensing Division

and

Don Smalling
Anti-Fraud Division



Julie Delluomo