BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED

JAN - 9 2009

INSURANCE COMMISSIONER
OKLAHOMA

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| STATE OF OKLAHOMA, ex rel. KIM HOLLAND, Insurance Commissioner, Petitioner, | ) | |
| v. | ) | Case No. 08-1813-DIS |
| TRACY LYNN BARBER, Respondent. | ) | |

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

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 as such is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq., including the Insurance Adjuster Licensing Act, 36 O.S. § 6201 et seq.

2. The Insurance Commissioner may censure, suspend, revoke or refuse to issue or renew an adjuster's license and or may levy a fine up to $1,000.00 for each violation of the Oklahoma Insurance Code. 36 O. S. § 6219 and § 6220(A) and (B).

**ALLEGATIONS OF FACT**

1. The Oklahoma Insurance Department ("Department") received a complaint on August 25, 2008 from Robert Kelley. Mr. Kelley stated that his vehicle was rear-ended on April 23, 2008 by a person insured with Safe Auto Insurance Company. Mr. Kelley complained that Safe Auto did not resolve the claim and would not return his phone calls.

2. The Department notified Safe Auto of the complaint by letter dated September 9, 2008 and ordered it to respond within 20 days as required by 36 O.S. § 1250.4(B). Alice Sologic, Senior Claims Manager with Safe Auto, responded to the Department's order by letter dated October 2, 2008. She informed the Department that the claim had been assigned to adjuster Tracy Barber on April 24, 2008.

3. Ms. Barber left Safe Auto in June 2008. The claim was then assigned to adjuster Jamie Shellhammer on June 24, 2008. Mr. Kelley continued to leave messages for Tracy Barber; however these messages were not received by Ms. Shellhammer or anyone else in the claim department.

4. A routine review of the Department's records determined Barber's non-resident adjuster license expired on May 31, 2003 and she was no longer licensed as an adjuster in Oklahoma as of that date.

5. The Adjusters Licensing Act portion of the Oklahoma Insurance Code in 36 O.S. § 6204 (A) in pertinent part states: *"No person shall act or hold himself or herself out as an adjuster in this state unless the person is a licensed adjuster in this state;..."* Subsection (B) goes on to state: *"Any person who violates the provisions of this section shall be guilty of a misdemeanor and, upon conviction shall be punished by a fine of not more than Five Hundred Dollars ($500.00) or by confinement in the county jail for not more than six (6) months, or by both said fine and confinement."*

6. The department requested Safe Auto provide a list of claims adjusted by Tracy Barber while employed with Safe Auto. Safe Auto reported forty-seven (47) occurrences of claims adjusted by Barber in Oklahoma on behalf of Safe Auto without a valid license.

## ALLEGED VIOLATIONS OF LAW

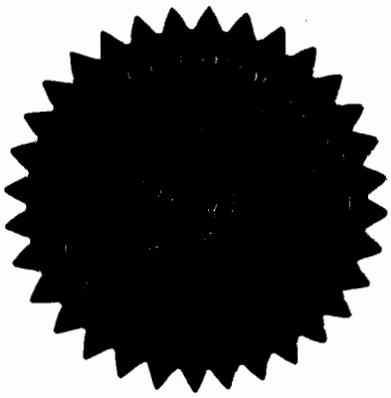
Respondent violated 36 O.S. § 6220 (A) (9) and 36 O.S. § 6204 by acting or holding herself out as an adjuster in this state while unlicensed.

## ORDER

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** by the Insurance Commissioner, subject to the following paragraph, that the Respondent violated 36 O.S. § 6220(A)(9) and 36 O.S. 6204 and therefore **Respondent is CENSURED AND FINED ONE THOUSAND DOLLARS ($1000.00) payable within thirty (30) days of the date of mailing.**

**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 Allegations 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 shall become a Final Order on the thirty-first day following the date of mailing of this Order. Such request for hearing, if desired, shall be made in writing, addressed to Julie Delluomo, Oklahoma Insurance Department, Legal Division, Post Office Box 53408, Oklahoma City, Oklahoma 73152-3408 and must be served on the Oklahoma Insurance Department within the thirty (30) days allotted. The proceedings on any 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 et.seq.

WITNESS My Hand and Official Seal this 9th day of January 2009.



KIM HOLLAND
INSURANCE CO0MMISSIONER
STATE OF OKLAHOMA

Julie Delluomo
Assistant General Counsel

**CERTIFICATE OF SERVICE**

I, Julie Delluomo, hereby certify that a true and correct copy of the above and foregoing Conditional Administrative Order and Notice of Right to be Heard was mailed postage prepaid with return receipt requested on this 9th day of January to:

Tracy Lynn Barber
2400 Farmers Drive, 4th Floor
Columbus, Ohio 43235

CERTIFIED NO. 7006 2760 0005 6605 0893

and that a copy was delivered to:

Leah Scoles
Agents Licensing Division

April Morris
Consumer Assistance/Claims Division

Julie Delluomo