BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

FILED
MAR 23 2011
INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN D. DOAK, Insurance Commissioner,	)	
Petitioner,	)	
v.	)	**Case No. 11-0352-DIS**
WESLEY D. HERZBERG,	)	
Respondent.	)	

CONDITIONAL ADMINISTRATIVE ORDER
AND NOTICE OF RIGHT TO BE HEARD

COMES NOW the State of Oklahoma, ex rel. John D. Doak, Insurance Commissioner, by and through his attorney, Julie Meaders, and alleges and states as follows:

JURISDICTION

1. John D. Doak 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. Wesley D. Herzberg is self-employed as an insurance producer. His producer license 99660 was suspended on September 30, 2010 for failure to renew. His address of record is 1505 W. Trenton Street, Broken Arrow, Oklahoma 74012.

3. 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 and/or may levy a fine up to $1,000.00 for each occurrence of a violation of the Oklahoma Insurance Code, 36 O.S. § 1435.13(A) and (D).

ALLEGATIONS OF FACT

1. Respondent submitted an application to reinstate his producer license on March 17, 2011. The application stated under Respondent's employment history that he has been self-employed as an insurance producer from March 2006 to the present date.

2. Respondent declared under penalty of perjury that the statements made in the application were true and complete.

3. Oklahoma Insurance Department records reveal that Respondent was issued producer license 99660 on September 18, 1986. The license was suspended on September 30, 2010 for failure to renew due to a tax hold by the Oklahoma Tax Commission. The tax hold was released on March 16, 2011.

4. Respondent was required to be licensed while self-employed as an insurance agent from October 1, 2010 to the present.

CONCLUSIONS OF LAW

1. Respondent violated 36 O.S. § 1435.4(A) in failing to maintain an active producer license while employed in an insurance-related business, thereby in violation of 36 O.S. § 1435.13(A)(2).

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner, subject to the following paragraph, that the Respondent violated 36 O.S. § 1435.13(A)(2) and as a result **Respondent is FINED** in the amount of **TWO HUNDRED AND FIFTY DOLLARS ($250.00). Fine to be paid within thirty (30) days of receipt of this Order.** License will be reinstated upon payment of the fine.

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 this Order. A request for hearing should be in writing addressed to Julie Meaders, Oklahoma Insurance Department, Legal Division, Post Office Box 53408, Oklahoma City, Oklahoma 73152-3408. The request for hearing must state the grounds for the request to set aside or modify the Order.

Any such hearing shall be conducted according to the procedures for contested cases under the Insurance Code and 75 O.S. § 250-323. If the Respondent serves a timely request for hearing on the Oklahoma Insurance Department, this Conditional Order shall act as notice of the matters to be reviewed at the hearing, and the Allegations of Fact, Alleged Violations 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 23rd day of March, 2011.

JOHN D. DOAK
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

Julie Meaders

Julie Meaders
Assistant General Counsel
P.O. Box 53408
Oklahoma City, Oklahoma 73152

CERTIFICATE OF MAILING

I, Julie Meaders, 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 by certified mail with postage prepaid and return receipt requested on this 23rd day of March, 2011 to:

Wesley D. Herzberg
1505 W. Trenton Road
Broken Arrow, OK 74012

CERTIFIED MAIL NO: 7001 0320 0004 0178 6182

and that notification was sent to:

NAIC/RIRS

and that a copy was delivered to:

Leah Scoles
Licensing Division

Julie Meaders

Julie Meaders

7001 0320 0004 0178 6182

U.S. Postal Service

CERTIFIED MAIL RECEIPT

(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

Postage	$	
Certified Fee		Postmark Here
Return Receipt Fee (Endorsement Required)		
Restricted Delivery Fee (Endorsement Required)		
Total Postage &		

MARTIN LUTHER KING STATION
MAR 24 2011
OKC OK 73100

Sent To: Wesley D. Herzberg
1505 W. Trenton Road
Street, Apt. No.; or PO Box No.: Broken Arrow, OK 74012
City, State, ZIP+4: 11-0352-DIS / JAM (MT)
Cong. Admin. Dd.

PS Form 3800, January 2001 — See Reverse for Instructions

SENDER: *COMPLETE THIS SECTION*

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

RECEIVED
OKLAHOMA INSURANCE DEPARTMENT
MAR 29 2011
Legal Division

Wesley D. Herzberg
1505 W. Trenton Road
Broken Arrow, OK 74012

11-0352- DIS/JAM(m)
Cond. Admin. Ord.

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X
☐ Agent
☐ Addressee

B. Received by *(Printed Name)*

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type
☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? *(Extra Fee)* ☐ Yes

2. Article Number
(Transfer from service label) 7001 0320 0004 0178 6182

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1540