BEFORE THE INSURANCE COMMISSIONER OF THE STATE OF OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN D. DOAK, Insurance Commissioner,	)	
Petitioner,	)	
v.	)	**Case No. 12-0099-DIS**
CECILY MARIE SMITH, a licensed insurance producer,	)	
Respondent.	)	

ADMINISTRATIVE ORDER OF SUSPENSION INSTANTER

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. Respondent was licensed by the State of Oklahoma as a resident insurance producer holding license number 98160. Her producer license lapsed on August 31, 2012. Her address of record with the Oklahoma Insurance Department is P.O. Box 633, Newcastle, Oklahoma 73065.

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).

4. The Insurance Commissioner shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by the Oklahoma Producer Licensing Act and Title 36 of the Oklahoma Statutes against any person who is under investigation for or charged with a violation of the Oklahoma Producer Licensing Act and Title 36 of the Oklahoma Statutes even if the person's license or registration has been surrendered or has lapsed by operation of law. 36 O.S. § 1435.13(F).

5. 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).

ALLEGATIONS OF FACT

1. The Consumer Assistance Division of the Oklahoma Insurance Department (the "Department") received a complaint from Rose Smith a/k/a Rose Marsh on November 15, 2011. Smith stated that she had called her homeowners insurer, MetLife Auto & Home, on November 14 regarding a claim for storm damage to her roof.

2. MetLife informed Smith on that date that her policy was cancelled effective December 8, 2010 for nonpayment of premium and that her claim on the policy would be denied for lack of coverage. Smith knew nothing about this and began repeatedly contacting her insurance agent, Respondent Cecily Smith.

3. Respondent was employed at Pioneer Insurance Agency in Newcastle, Oklahoma. Rose Smith received various excuses from Respondent regarding the homeowners insurance but never received any satisfactory explanation for the lack of coverage.

4. The Department's Anti-Fraud Division received a complaint from Chris Greene, Vice-President of LeBlanc & Associates, LLC on December 20, 2011. LeBlanc & Associates was the owner of Pioneer Insurance Agency in Newcastle, Oklahoma. Greene complained to both the Department and the Newcastle Police Department after investigating the poor financial condition of the insurance agency and Rose Smith's complaint to the Department. Greene suspected the cause of both was due to impropriety by Respondent. Greene also suspected that Respondent converted the insurance agency's payroll taxes to her personal use.

5. Rose Smith had made a cash payment of $1,075.00 to Cecily Smith at Pioneer Insurance Agency on October 20, 2010. The payment was the full premium toward a homeowner's policy with MetLife Auto & Home from November 16, 2010 through November 16, 2011. The policy was never placed in effect.

6. Department investigator Rick Wagnon met with Detective Kevin Morrissey at the Newcastle Police Department on September 25, 2012. Morrissey advised that the investigation had taken on an internal affairs aspect as the Respondent had been employed as "B" shift dispatcher at the Newcastle Police Department since before the discovery of possible impropriety at Pioneer Insurance Agency.

7. Unbeknownst to the police department and Greene, Respondent was reporting for training/duty at the police department during the same hours she was suppose to be working at Pioneer Insurance Agency. Greene complained that he wished to pursue charges for paying a "ghost employee" in addition to his previous complaint that she had converted the agency's monies to her personal use.

8. Morrissey provided Wagnon with Rose Smith's cash receipt dated October 20, 2010 written by Respondent. He also provided Pioneer's business records which showed the

payment was not logged, the money was not deposited and there was no record that Respondent ever bound coverage. He stated that there were approximately twenty other customers that had made cash payments to Cecily Smith without any business records showing subsequent bank deposits.

9. Morrissey provided emails between Respondent and MetLife in which she attempted to obtain coverage after the storm damage from MetLife for Rose Smith but failed to disclose the storm damage to MetLife. There were also emails between Respondent and Rose Smith in which Respondent encouraged Smith to obtain coverage from another insurer, wait for another storm, and then file a claim on the pre-existing damage to the roof.

ALLEGED VIOLATIONS OF LAW

1. Respondent violated 36 O.S. § 1435.13(A)(4) improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business.

2. Respondent violated 36 O.S. § 1435.13(A)(8) by using fraudulent, coercive or dishonest practices and by demonstrating incompetence, untrustworthiness and 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 Respondent violated 36 O.S. § 1435.13(A) (4) and (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.** Pursuant to 36 O.S. § 1435.13(D), **RESPONDENT IS FINED IN THE AMOUNT OF ONE THOUSAND DOLLARS ($1,000.00)**, payable within thirty (30) days of receipt of this order.

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 Meaders, Assistant General Counsel, Oklahoma Insurance Department, 3625 NW 56th Street, Suite 100, Oklahoma City, OK 73112. 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 days (30) days from the date of receipt of this order.

WITNESS My Hand and Official Seal this 18th day of October 2012.

PAUL WILKENING
FIRST DEPUTY COMMISSIONER
STATE OF OKLAHOMA

CERTIFICATE OF MAILING

I, Julie Meaders, hereby certify that a true and correct copy of the above and foregoing Administrative Order of Suspension Instanter was mailed via certified mail with postage prepaid and return receipt requested on this 18th day of October 2012, to:

Cecily Marie Smith
P.O. Box 633
Newcastle, OK 73065

CERTIFIED MAIL NO: 7006 2760 0005 6606 3992

and that notification was sent to:

NAIC/RIRS
and to all appointing insurers

and that a copy was delivered to:

Licensing Division
Anti-Fraud Unit/Investigations Division

Julie Meaders

Julie Meaders