

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

**FILED**  
NOV 15 2012  
INSURANCE COMMISSIONER  
OKLAHOMA

**STATE OF OKLAHOMA, ex rel. JOHN D.  
DOAK, Insurance Commissioner,** )  
)  
)  
  **Petitioner,** )  
v. )  
)  
**KIMBERLEY BARTON, a licensed resident** )  
**producer in the State of Oklahoma,** )  
)  
  **Respondent.** )

**Case No. 12-0452-DIS**

**ORDER DENYING LICENSURE**

This matter is a denial proceeding under the Oklahoma Producer Licensing Act. 36 O.S. §§ 1435.1 et seq. The Oklahoma Insurance Department notified Respondent on May 30, 2012 that her application for renewal of her insurance producer license was denied for violating insurance laws and having been convicted of criminal felonies. 36 O.S. §§ 1435.13(A)(2) and (6). Respondent requested a formal administrative hearing before an independent hearing examiner concerning the matter on June 21, 2012

The date of hearing was initially set for July 25, 2012 and was continued by agreement of the parties. The hearing was held before the undersigned Hearing Examiner on October 24, 2012. Petitioner appeared by counsel Julie Meaders. Respondent appeared without counsel. Witnesses were sworn and testified, exhibits were presented and argument of counsel heard.

**FINDINGS OF FACT**

1. Respondent submitted an online uniform application to the Oklahoma Insurance Department on May 3, 2012 for renewal of her resident producer license. The criminal background question on the application asks:

“Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?” The question is further clarified by the statement: “Crime includes a misdemeanor, felony or military offense. You may exclude misdemeanor traffic citations or convictions involving driving under the influence (DUI) or driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license and juvenile offenses.”

2. Respondent answered the question “yes”. If the question is answered “yes”, the applicant must attach a written statement explaining the circumstances of each incident; a copy of the charging document; and a copy of the official document demonstrating the resolution of the charges or any final judgment. Respondent did not attach any of the documents to the application but after an email request from Licensing Analyst Carol West, the documents were received May 14, 2012.

3. The documents showed that Respondent was charged in Payne County on January 25, 2010 for felony manufacturing methamphetamine and child endangerment and that she was convicted of those charges and received a suspended sentence on June 22, 2011.

4. A background review of the Oklahoma Supreme Court System (OSCN) by the Licensing Division discovered that Respondent had been charged with assault and battery in 2011 in Payne County which was not disclosed on her 2012 renewal application. Respondent had also been convicted of other misdemeanors under the name Kim McDonald. Further review showed that upon her 2010 renewal application she had failed to disclose that she was currently charged with two felonies.

5. Respondent’s license renewal was denied based on this information. Respondent thereafter requested an administrative hearing regarding the denial of her license.

6. The hearing was held on October 25, 2012.

7. The Insurance Commissioner appointed Leamon Freeman to hear the case as the

Independent Hearing Examiner.

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

9. The following exhibits were introduced and admitted:

Petitioner's Exhibit 1: Respondent's 2012 renewal application for producer license;

Petitioner's Exhibit 1a: Background questions and answers on 2010 renewal application;

Petitioner's Exhibit 2: May 9, 2012 letter from Kimberley Barton to Oklahoma Insurance Department;

Petitioner's Exhibit 3: Barton's written explanation of circumstances surrounding her felony convictions for manufacturing methamphetamine and child endangerment to the Department;

Petitioner's Exhibit 4: Information in Payne County Case No. CF-2010-53;

Petitioner's Exhibit 5: Judgment & Sentence in CF-2010-53;

Petitioner's Exhibit 6: OSCN Docket sheet for Payne County Case No. CM-1994-601;

Petitioner's Exhibit 7: OSCN Docket Sheet for Payne County Case No. CM-1994-625;

Petitioner's Exhibit 8: OSCN Docket Sheet for Payne County Case. No. CN-1994-1124;

Petitioner's Exhibit 9: OSCN Docket Sheet for Payne County Case No. CM-1996-980;

Petitioner's Exhibit 10: OSCN Docket Sheet for Payne County Case No. CM-2009-1524;

Petitioner's Exhibit 13: Information in Payne County Case No. CM-2011-836;

Petitioner's Exhibit 15: OSCN Docket Sheet in Payne County Case No. PO-2012-259;

Petitioner's Exhibit 16: OSCN Docket Sheet in Payne County Case No. PO-2012-11;

Respondent's Exhibit 1: Letter from Dee Miller, Community Sentencing Specialist at Department of Corrections.

10. Respondent and Carol West were sworn and testified under oath.

11. The Hearing Examiner heard testimony and entered the following findings of fact:

a. Evidence was admitted that applicants are required to disclose if they have been convicted of a crime, had a judgment withheld or deferred, or are currently charged with committing a crime.

b. Testimony was presented to the Hearing Examiner that Respondent provided incorrect, misleading and incomplete information in the 2010 license application in failing to disclose her felony charges.

c. Evidence was admitted and testimony was presented that Respondent's pattern of substance abuse and violence demonstrated irresponsible and untrustworthy behavior. While the Respondent is commended for completing in-patient rehabilitation and currently continuing with her rehabilitation efforts, it is not yet certain whether she will remain rehabilitated.

#### **CONCLUSIONS OF LAW**

Respondent violated 36 O.S. § 1435.13(A)(1), by providing incorrect, misleading and


incomplete information in her license application. Respondent violated 36 O.S. § 1435.13(A)(6), having been convicted of felonies.

**ORDER**

**BASED UPON THE FOREGOING, IT IS HEREBY ORDERED THAT THE DENIAL OF THE RENEWAL APPLICATION OF KIMBERLEY BARTON BY THE OKLAHOMA INSURANCE DEPARTMENT IS AFFIRMED.**

Done this 8<sup>th</sup> day of November, 2012.



  
LEAMON FREEMAN  
Hearing Examiner  
Oklahoma Insurance Department  
3625 NW 56<sup>th</sup> Street, Suite 100  
Oklahoma City, OK 73112

**CERTIFICATE OF SERVICE**

I certify that on the 15<sup>th</sup> day of November, 2012, a copy of this Final Order was sent by certified mail, return receipt requested, to:

Kimberley Barton  
3000 S. Ripley Road  
Ripley, OK 74062

**CERTIFIED MAIL NO: 7006 2760 0005 6605 6925**

And a copy was delivered to:

Licensing Division

  
\_\_\_\_\_  
Julie Meaders