

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

FILED
JUL 16 2013
INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN D.)
DOAK, Insurance Commissioner,)
)
Petitioner,)
)
v.)
)
MICHAEL LEE KENNEDY, a licensed)
insurance producer,)
)
Respondent.)

Case No. 13-0459-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 1, 2013 that his application for reinstatement of his insurance producer license was denied for providing incorrect, misleading, incomplete or materially untrue information in his Oklahoma license application pursuant to 36 O.S. §§ 1435.13(A)(1). Respondent requested a formal administrative hearing before an independent hearing examiner concerning the matter on May 6, 2013.

The hearing was held before the undersigned Hearing Examiner on June 4, 2013. Petitioner appeared by counsel Julie Meaders. Respondent appeared with counsel Greg Williams who was unable to represent him because Williams was not licensed to practice law in Oklahoma. Witnesses were sworn and testified, exhibits were presented and argument of counsel heard.

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 formerly licensed as a resident insurance producer holding license 86785. His license lapsed on March 31, 2013. His address of record with the Oklahoma Insurance Department is P.O. Box 543, Durant, OK 74701.

3. The Insurance Commissioner, pursuant to 36 O.S. § 319, may appoint an independent hearing examiner who shall sit as a quasi-judicial officer.

FINDINGS OF FACT

1. Respondent made application for reinstatement of his producer license in the State of Oklahoma by submitting an online application to the Licensing Division of the Oklahoma Insurance Department on April 26, 2013. He listed his address of record as P.O. Box 543, Durant, OK 74701.

2. The application asked whether the applicant had ever been convicted of a crime, had a judgment withheld or deferred, or was currently charged with a crime. Respondent answered this question "no".

3. A background check by the Licensing Division showed Respondent was convicted on March 18, 2011 of misdemeanor possession of a controlled substance and unlawful possession of drug paraphernalia in Bryan County Case No. CM-2010-1029. Further, the background check showed that Respondent was charged on April 8, 2013 with felony unlawful delivery of marijuana in Bryan County Case No. CF-2013-199.

4. Respondent's license reinstatement was denied based on this information. Respondent thereafter requested an administrative hearing regarding the denial of his license.

5. The hearing was held on June 4, 2013.

6. The Insurance Commissioner appointed Leamon Freeman to hear the case as the Independent Hearing Examiner.

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

8. The following exhibits were introduced and admitted:

Petitioner's Exhibit 1: Respondent's 2013 reinstatement application for producer license;

Petitioner's Exhibit 2: On Demand Court Record document for Michael Lee Kennedy;

Petitioner's Exhibit 3: Background Questions and Answers from Michael Lee Kennedy's 2011 renewal application.

Petitioner's Exhibit 4: Information in Bryan County CM-2010-1029 case;

Petitioner's Exhibit 5: Affidavit of Probable Cause to Make Warrantless Arrest in Bryan County CM-2010-1029 case.

Petitioner's Exhibit 6: Judgment and Sentence in Bryan County CM-2010-1029 case;

Petitioner's Exhibit 7: Information in Bryan County CF-2013-199 case;

Petitioner's Exhibit 8: Affidavit of Probable Cause to Make Warrantless Arrest in Bryan County CF-2013-199 case;

9. Respondent and Licensing Analyst Karen Wojtek were sworn and testified under oath.

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

a. Evidence was admitted and testimony was presented 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 a crime.

b. Evidence was admitted and testimony was presented that Respondent provided incorrect and misleading information in both his 2011 renewal application and 2013 reinstatement application for failing to disclose his March 18, 2011 conviction for possession of a controlled substance and unlawful possession of drug paraphernalia in Bryan County Case No. CM-

2010-1029.

d. Evidence was admitted and testimony was presented that Respondent provided incorrect and misleading information in his 2013 reinstatement application for failing to disclose that he was currently charged with felony unlawful delivery of marijuana in Bryan County Case No. CF-2013-199.

CONCLUSIONS OF LAW

Respondent violated 36 O.S. § 1435.13(A)(1) by providing incorrect, misleading and incomplete information in his 2011 renewal application and his 2013 reinstatement application.

ORDER

BASED UPON THE FOREGOING, IT IS HEREBY ORDERED THAT THE DENIAL OF THE REINSTATEMENT APPLICATION OF MICHAEL LEE KENNEDY BY THE OKLAHOMA INSURANCE DEPARTMENT IS AFFIRMED.

Done this 16th day of June, 2013.

July



Leamon Freeman
LEAMON FREEMAN
Hearing Examiner
Oklahoma Insurance Department
3625 NW 56th Street, Suite 100
Oklahoma City, OK 73112

CERTIFICATE OF SERVICE

I, Julie Meaders, hereby certify that on the 16th day of July, 2013, a copy of this Final Order was sent by certified mail, return receipt requested, to:

Michael Lee Kennedy
P.O. Box 543
Durant, OK 74701

Certified Mail No.
7001 0320 0003 9967 3778

CERTIFIED MAIL NO:

A copy was sent to:

NAIC/RIRS
All appointing insurers

And a copy was delivered to:

Licensing Division

Julie Meaders
Julie Meaders

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Domestic Mail Only; No Insurance Coverage Provided)

OFFICIAL USE

7001 0320 0003 9967 3778

Postage	\$
Certified Fee	
Return Receipt Fee (Endorsement Required)	
Restricted Delivery Fee (Endorsement Required)	
Total Postage & Fees	\$



Sent To
 Street, Apt. No.;
 or PO Box No.
 City, State, ZIP+4

Michael Lee Kennedy
 P.O. Box 543
 Durant, OK 74701
 rlg/13-0459-DIS/Order

PS Form 3800, January 2009

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:

Michael Lee Kennedy
 P.O. Box 543
 Durant, OK 74701
 rlg/13-0459-DIS/Order

COMPLETE THIS SECTION ON DELIVERY

A. Signature
 X Anita Emmert Agent Addressee

B. Received by (Printed Name) C. Date of Delivery
 7-18-13

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

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 0003 9967 3778