

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

FILED

JUN 17 2015

**INSURANCE COMMISSIONER
OKLAHOMA**

**STATE OF OKLAHOMA, ex rel. JOHN D.
DOAK, Insurance Commissioner,**

Petitioner,

v.

Case No. 15-0584-DEN

**BRIAN KELLY BERRY, an Applicant
for a Resident Insurance Producer License**

Respondent.

ORDER OF LICENSE PROBATION

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

JURISDICTION

1. John D. Doak is the Insurance Commissioner of the State of Oklahoma (“the Insurance Commissioner”) and is charged with the duty of administering and enforcing all provisions of the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq.

2. Brian Kelly Berry (“Respondent”) is an applicant for a resident insurance producer license in the State of Oklahoma. His address of record is 4300 Rimridge Road, Edmond, Oklahoma 73025.

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 for each occurrence of a violation of the Oklahoma Insurance Code. See 36 O.S. § 1435.13(A) and (D).

FINDINGS OF FACT

1. On or about May 1, 2015, Respondent applied for a resident insurance producer license with the Oklahoma Insurance Department (“the Department”).

2. Question 1(A) in the license application form asks the following in pertinent part: “Have you ever been convicted of a misdemeanor had a judgment withheld or deferred, or are you currently charged with a misdemeanor?” Respondent answered the question “yes”.

3. If the question is answered “yes” the applicant must provide a written statement explaining the circumstances of the incident; a copy of the charging document; and a copy of the official document demonstrating resolution of the charges or any final judgment.

4. Respondent complied with these requirements and provided information to the Department via a letter from himself, a letter from his local attorney and various copies of court-related documents from the General Sessions Court, Lexington County, South Carolina. The Respondent states in 2001 he worked as a house builder in this area of South Carolina.

5. Based on the court document copies submitted, a group of arrest warrants for Respondent were issued out of the General Sessions Court of Lexington County, South Carolina based on and centered on the same alleged acts and omissions of Respondent in 2001. The charges were for “unlawful practice of regulated profession,” “failure to pay contractors,” “obtaining signature or property by false pretenses,” and “failure to pay laborers and others.” It appears from the copies of documents submitted that “Indictments” for some or all of these charges were issued at random times in 2003 and 2011. It appears from the statements of Respondent and his local attorney these charges have never dismissed, but the South Carolina authorities have not tried, prosecuted or otherwise addressed and disposed of them, for reasons unknown. This leaves Respondent in a state of limbo as to these charges.

6. These charges were filed based on events occurring fourteen years ago, have never been disposed of or prosecuted to closer, and the preponderance of the evidence indicates it is doubtful there will ever be a disposition of the matters. However, Respondent remains currently charged with crimes of record in South Carolina that, if convicted, might place Respondent under 18 U. S. C. A. §§ 1033 and 1034 and, if not, would certainly make granting him an Oklahoma resident producers license more problematic.

7. Respondent and his Oklahoma counsel provided written statements concerning the matter. The Respondent has disclosed everything the Department has asked of him.

8. Pursuant to 36 O.S. § 1435.13(A)(8), the Insurance Commissioner may revoke an insurance producer licensee for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

CONCLUSIONS OF LAW

1. Respondent complied with the Oklahoma Insurance Code requirements by disclosing the prior criminal charges filed, but not prosecuted against him in South Carolina.

2. The Insurance Commissioner may place a licensee on probation for a violation of 36 O.S. § 1435.13(A) as an intermediate course.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner that Respondent is granted a resident Oklahoma insurance producer license on a probationary status for a period of two (2) years. At the time of Respondent's first renewal of his producer license, his probationary status must and shall be reviewed by the Insurance Commissioner and the probationary status may be removed at that time. When that time comes,

the Respondent should contact the Producer Licensing Division of the Oklahoma Insurance Department.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner that this Order shall be reported as an administrative action.

If Respondent commits a violation of the Oklahoma Insurance Code, his license may thereafter be **REVOKED**.

WITNESS My Hand and Official Seal this 17th day of June, 2015.



JOHN D. DOAK
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

Kelley C. Callahan
Senior Attorney
Oklahoma Insurance Department
3625 NW 56th Street, Suite 100
Oklahoma City, OK 73112

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing *Order of License Probation* was mailed via certified mail, with postage prepaid and return receipt requested, and via regular U.S. mail, on this 17th day of June, 2015 to:

Brian Kelly Berry
4300 Rimridge Drive
Edmond, OK 73025

Certified Mail Number:

Certified Mail No.

7015 0640 0004 4933 7593

Jeffrey D. Nachimson,
Jeffrey D. Nachimson, PLLC
830 N.W. 10th
Oklahoma City, OK 73106
Attorney for Respondent

Certified Mail No.

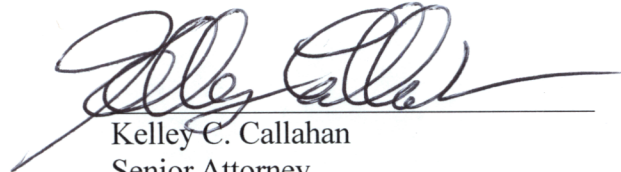
7015 0640 0004 4933 7609

and that Notification was sent to:

NAIC/RIRS

and that a copy was delivered to:

Karen Wojtek
Licensing Division
Oklahoma Insurance Department



Kelley C. Callahan

Senior Attorney

Oklahoma Insurance Department

7015 0640 0004 4933 7593

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☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

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Total Postage

\$

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Street and A

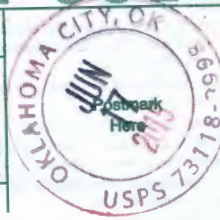
City, State, Z

Brian Kelly Berry

4300 Rimridge Dr.

Edmond, OK 73025

sms/15-0584-DEN/Ord of Prob



PS Form 3800, April 2015 PSN 7530-02-000-9047

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:

Brian Kelly Berry
4300 Rimridge Dr.
Edmond, OK 73025
sms/15-0584-DEN/Ord of Prob

2. Article Number

(Transfer from service label)

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X Carolyn Berry

☐ Agent

☐ Addressee

B. Received by (Printed Name)

CAROLYN BERRY

C. Date of Delivery

6/19/14

D. Is delivery address different from item 1? ☐ Yes

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

7015 0640 0004 4933 7593

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

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☐ Certified Mail Restricted Delivery \$
☐ Adult Signature Required \$
☐ Adult Signature Restricted Delivery \$

Postage

\$

Total Postage

\$

Sent To

Street and Apt

City, State, Zi

Jeffrey D. Nachimson
 Jeffrey D. Nachimson, PLLC
 830 N.W. 10th
 OKC, OK 73106
 sms/15-0584-DEN/Ord of Prob

PS Form 3800, April 2015 PSN 7530-02-000-9047

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:

Jeffrey D. Nachimson
 Jeffrey D. Nachimson, PLLC
 830 N.W. 10th
 OKC, OK 73106
 sms/15-0584-DEN/Ord of Prob

2. Article Number
 (Transfer from service label)

7015 0640 0004 4933 7609

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

Kristine Sims

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

Kristine Sims

C. Date of Delivery

6/18/15

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