

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED
DEC 23 2015
INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN)
D. DOAK, Insurance Commissioner,)
)
Petitioner,)
)
v.)
)
NICHOLAS FOWLER, a resident insurance)
adjuster,)
)
Respondent.)

Case No. 15-1330-DIS

**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, Dan R. Byrd, 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 is a resident insurance adjuster in the State of Oklahoma holding license number 0040162608. Respondent's business address of record is 12222 State Farm Blvd., Tulsa, OK 74146-5400.
3. The Insurance Commissioner may place on probation, censure, suspend, revoke or refuse to issue or renew an initial license issued pursuant to the Oklahoma Insurance Adjusters 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. § 6219, § 6220(A) and (B).

ALLEGATIONS OF FACT

1. On or about June 15, 2015 Stephen Colburn, Investigator, of the Oklahoma Insurance Department's (the "Department") Anti-Fraud Division received a complaint filed by Doris Canady, SIU Investigator for USAA. In the complaint Ms. Canady notified the Department of the activity of Respondent and his wife Hannah Fowler on a property damage claim that they had filed on their 2003 BMW Z4 automobile with USAA which Respondent had reported occurred towards the end of February 2015 after a dump truck passed and sprayed debris on his vehicle when he was traveling alone on Highway 169 in Tulsa, Oklahoma, which Ms. Canady had worked on that was denied by USAA for material misrepresentation and for no physical damage for the reported date of loss.

2. Stephen Colburn interviewed Respondent on November 5, 2015 in the Department's Tulsa Office in regards to the USAA complaint. During the interview Stephen Colburn confirmed with Respondent that Respondent had an incident on August 26, 2014 on Highway 169 in Tulsa, Oklahoma where a dump truck passed him and dropped enough rock dust on his 2003 BMW Z4 automobile to cause damage to his vehicle, that Respondent contacted the trucking company of the dump truck and tried to file a claim with their insurance carrier Progressive, that on August 28, 2014 Respondent went on line and added comprehensive and collision coverage to his 2003 BMW Z4 automobile with USAA, that on October 20, 2014 Progressive informed Respondent that they would not pay on his claim for the incident that occurred on August 26, 2014 involving his 2003 BMW Z4 automobile, that on December 6, 2014, Respondent filed a complaint against Progressive with the Department in which he claimed that on August 26, 2014 a dump truck from 1320 Enterprises passed him in the left lane of Highway 169 in Tulsa, Oklahoma damaging his 2003 BMW Z4 automobile because it was

trailing a dusty/rocky mixture of fine loose gravel particles and that Progressive, which was the insurance carrier for the dump truck had denied his claim, that after the Department was unable to resolve Respondent's issues with Progressive's claim denial he contacted USAA and after being told by USAA that it would not raise his rates to file a claim he tried to do so, and that on or about April 6, 2015 Respondent had stated to a USAA representative that the incident involving his 2003 BMW Z4 automobile when a dump truck passed and sprayed debris on his vehicle when he was traveling alone on Highway 169 in Tulsa, Oklahoma had occurred "towards the end of February" 2015. Near the conclusion of Stephen Colburn's interview with Respondent, Respondent insisted that it had slipped his mind and that he had just forgot that he added comprehensive coverage on his 2003 BMW Z4 automobile with USAA two (2) days after the August 26, 2014 incident involving his 2003 BMW Z4 automobile when a dump truck passed and sprayed debris on his vehicle when he was traveling alone on Highway 169 in Tulsa, Oklahoma had occurred and that he would not have filed the claim with USAA if he had remembered that fact.

CONCLUSIONS OF LAW

1. Respondent violated 36 O.S. § 6220(A)(4) by making a material misrepresentation of the terms and effect of the USAA insurance policy with the intent to deceive when he claimed that the property damage to his 2003 BMW Z4 automobile had occurred towards the end of February 2015 at the time such vehicle had comprehensive and collision coverage when in fact it had occurred on August 26, 2014 at the time such vehicle did not have comprehensive and collisions coverage.

2. Respondent violated 36 O.S. § 6220(A)(6) by conducting his business affairs in a manner to have shown himself to be, and so deemed by the Insurance Commissioner,

incompetent, untrustworthy or a source of injury to the public when he claimed that the property damage to his 2003 BMW Z4 automobile had occurred towards the end of February 2015 at the time such vehicle had comprehensive and collision coverage when in fact it had occurred on August 26, 2014 at the time such vehicle did not have comprehensive and collisions coverage.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner, subject to the following paragraph, that the Respondent violated 36 O.S. § 6220(A)(4) and (6) and as a result Respondent is **FINED** in the amount of **Five Hundred Dollars (\$500.00)**. **Fine to be paid within thirty (30) days of receipt of this Order.**

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 Dan R. Byrd, Oklahoma Insurance Department, Legal Division, 3625 NW 56th Street, Suite 100 Oklahoma City, Oklahoma 73112. 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, Conclusions 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 December, 2015.



JOHN D. DOAK
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

A handwritten signature in black ink, appearing to read "Dan R. Byrd", written over a horizontal line.

Dan R. Byrd
Assistant General Counsel
3625 NW 56th Street, Suite 100
Oklahoma City, OK 73112
Telephone: (405) 521-2746
Facsimile: (405) 522-0125

CERTIFICATE OF MAILING

I, Dan R. Byrd, 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 December, 2015 to:

Nicholas Fowler
12222 State Farm Blvd.
Tulsa, OK 74146-5400

CERTIFIED MAIL NO: 7015 0640 0002 7406 3483

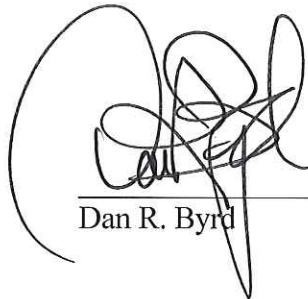
and that notification was sent to:

NAIC/RIRS

and that a copy was delivered to:

Stephen Colburn, Investigator
Anti-Fraud Division

Courtney Phipps
Licensing Division



Dan R. Byrd

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Nicholas Fowler
12222 State Farm Blvd.
Tulsa, OK 74146-5400
15-1330-DIS/DRB(mt)
(Cond.Ad.Ord. & Notice-12-23-15)

PS Form 3800, April 2015 PSN _____ See Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3.
- 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:

Nicholas Fowler
12222 State Farm Blvd.
Tulsa, OK 74146-5400
15-1330-DIS/DRB(mt)
(Cond.Ad.Ord. & Notice-12-23-15)

9590 9403 0272 5155 1341 69

2. Article Number (Transfer from service label)

7015 0640 0002 7406 3483

PS Form 3811, April 2015 PSN 7530-02-000-9053

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent Addressee
X *Nicholas Fowler*

B. Received by (Printed Name) _____ C. Date of Delivery 12-28-15

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

OKLAHOMA INSURANCE DEPARTMENT
RECEIVED
DEC 31 2015
Legal Division

3. Service Type

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