

BEFORE THE INSURANCE COMMISSIONER OF THE  
STATE OF OKLAHOMA

FILE

APR 19 2016

INSURANCE COMMISSIONER  
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN D. )  
DOAK, Insurance Commissioner, )  
 )  
Petitioner, )  
 )  
v. )  
 )  
AUSTIN & AUSTIN INS SERVICES INC, )  
an Applicant for an Oklahoma Non-Resident )  
Insurance Producer License )  
 )  
Respondent. )

Case No. 15-0325-DEN

**ORDER GRANTING PRODUCER LICENSE WITH PERIOD OF PROBATION**

COMES NOW the State of Oklahoma, ex rel. John D. Doak, Insurance Commissioner, by and through his undersigned counsel, Senior Attorney Kelley C. Callahan, 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., including the Oklahoma Producer Licensing Act, 36 O.S. §§ 1435.1 et seq.

2. Austin & Austin Ins Services Inc (“Respondent” and/or “Agency”) is an applicant for a non-resident insurance producer license in Oklahoma. The Agency’s mailing address of record on file with the Oklahoma Department of Insurance (“the Department”) is 5890 Stoneridge Drive, Pleasanton, California 94588.

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 March 24, 2016, Respondent applied for an Oklahoma non-resident insurance producer license with the Department.

2. Question (2) of the license Application asks if the “the business entity or any owner, partner, officer or director of the business entity, or manager or member of a limited liability company, been named or involved as a party in an administrative proceeding, including a FINRA sanction or arbitration proceeding regarding any professional or occupational license, or registration, which has not been previously reported to this insurance department. ‘Involved’ means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, placed on probation, sanctioned or surrendering a license to resolve an administrative action. Involved also means being named as a party to an administrative or arbitration proceeding which is related to a professional or occupational license. Involved also means having a license application denied or the act of withdrawing an application to avoid a denial.”

3. Respondent Agency answered “NO” to Oklahoma Application Question 2. This answer was not accurate.

4. California is the home state of Respondent Agency. On January 22, 2014, the California Department of Insurance in its File No. VA 1136-A issued a First Amended Accusation (“the Accusation”) against Respondent Agency. The bill of particulars in this California administrative action describes the failure of the Respondent Agency and one of its principals to exhaust the domestic market before selling surplus line insurance to several clients. The California “Accusation” indicates one of the principals of the Respondent Agency submitted

forms to the California Department about the surplus lines sales that were not factual and, consequently, the prosecutors of the “Accusation” asked for full revocation of Respondent Agency’s California producer’s license. However, there is no indication of further action in the California proceeding, and the Respondent Agency’s California license is still active.

5. When the Respondent Agency sought a non-resident producer license in Florida on or about August 26, 2014, it failed to report the prior California administrative action in its Application to the Florida Insurance Department. Florida then initiated its own administrative action, issuing a Consent Order granting Respondent Agency a Florida non-resident producer’s license for a one year probation period, without prejudice to Respondent’s ability to seek reinstatement of its license if no problems occurred during the suspension period. (*See* Florida Department of Financial Services, Division of Legal Services Case No. 157096-14-AG).

6. In the Oklahoma non-resident producer application at issue, the Respondent Agency did report the California administrative proceedings, but failed to report the Florida administrative action.

7. The Respondent Agency’s failure to report the Florida administrative action and answering “NO” to Application Background Question No. 2 caused the referral from Licensing to the Oklahoma Department’s Legal Division.

8. Respondent Agency has provided emails and communications to the Department about the sequence of events and nature and scope of the California and Florida administrative proceedings when requested by the Oklahoma Department.

### **CONCLUSIONS OF LAW**

1. 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.

2. The Insurance Commissioner may also in his or her regulatory discretion place a licensee on probation for a violation of 36 O.S. § 1435.13(A).

4. The Department has identified grounds to deny licensure based on Respondent Agency's false response to Oklahoma Application Question No. 2 concerning prior administrative actions.

5. However, as an intermediate course, the Insurance Commissioner finds it appropriate to issue Respondent Agency's license subject to a one (1) year probationary period as authorized by 36 O.S. § 1435.13(A). Removal of probationary status shall be conditioned upon the Respondent Agency's compliance with the Oklahoma Producer Licensing Act, 36 O.S. §§ 1435.1 et seq. and the firm's avoidance of any material adverse events in any administrative actions of the type described in Question 2 of the standard producer application.

### **ORDER**

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED** by the Insurance Commissioner that Austin & Austin Ins Services Inc is granted a non-resident Oklahoma insurance producer license subject to the condition of a one (1) year probationary status during which the firm must (1) avoid any material adverse events in any administrative action of the type described in Question 2 of the standard producer application, and (2) demonstrate it appreciates the nature and significance of Question 2 and the importance of listing any and all involvement with administrative matters in all future applications in any and all venues.

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that after the one (1) year probationary status the Insurance Commissioner will review and reevaluate the continued

need for probationary status. Austin & Austin Ins Services Inc should contact the Producer Licensing Division of the Oklahoma Insurance Department a month before the end of the probationary period to initiate this evaluation.

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

**IT IS FURTHER ORDERED, ADJUDGED AND DECREED** that if Austin & Austin Ins Services Inc commits a violation of the Oklahoma Insurance Code or experiences any adverse administrative event in any forum during the probationary period, its license may thereafter be **REVOKED** by the Oklahoma Insurance Commissioner through appropriate administrative action

WITNESS My Hand and Official Seal this 17<sup>th</sup> day of April, 2016.



JOHN D. DOAK  
INSURANCE COMMISSIONER  
STATE OF OKLAHOMA

A handwritten signature in black ink, appearing to read "Kelley C. Callahan", written over a horizontal line.

Kelley C. Callahan  
Senior Attorney  
Oklahoma Insurance Department  
3625 NW 56<sup>th</sup> Street, Suite 100  
Oklahoma City, OK 73112  
405-521-6616  
kelley.callahan@oid.ok.gov

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing *Order Granting Producer License with Period of Probation* was mailed via certified mail, with postage prepaid and return receipt requested, and via regular U.S. mail, on this 19<sup>th</sup> day of April, 2016 to:

Austin & Austin Ins Services Inc  
5890 Stoneridge Drive  
Suite 209  
Pleasanton, CA 94588

**Certified Mail No.**  
**7015 3010 0001 4604 5887**

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

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Austin & Austin Ins Services Inc.  
 5890 Stoneridge Dr., Suite 209  
 Pleasanton, CA 94588  
**sms/16-0325-DEN/Ord**

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Austin & Austin Ins Services Inc.  
 5890 Stoneridge Dr., Suite 209  
 Pleasanton, CA 94588  
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 Legal Division

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