

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED
OCT 26 2016
INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN DOAK, Insurance Commissioner,
Petitioner,
v.
JAMES ALLEN KIRK, II,
an applicant for a resident insurance
producer license,
Respondent.

Case No. 16-0987-DEN

CONDITIONAL ADMINISTRATIVE ORDER
AND NOTICE OF RIGHT TO BE HEARD

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

JURISDICTION

1. John 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., including the Oklahoma Producer Licensing Act, 36 O.S. §§ 1435.1 through 1435.41.
2. Respondent James Allen Kirk, II (“Respondent”) is an applicant for a resident insurance producer license in the State of Oklahoma. Respondent’s mailing address of record is 1620 N. Frisco Road, Tuttle, Oklahoma 73089.
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 \$1,000.00 for each occurrence of a violation of the Oklahoma Insurance Code. 36 O.S. § 1435.13(A) and (D).

ALLEGATIONS OF FACT

1. Respondent applied for a resident insurance producer license on or about October 10, 2016, with the Oklahoma Insurance Department (“OID”). On the application form, question 1A asks the following: “Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?” Respondent answered “no” to this question.

2. The application provides that individual applicants can only exclude “the following misdemeanor convictions or pending misdemeanor charges: traffic citations, driving under the influence (DUI), driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license.” Applicants are also permitted to “exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court).”

3. An Oklahoma Supreme Court Network (“OSCN”) background check by the OID Licensing Division showed that Respondent has the following misdemeanor convictions which are required to be disclosed:

- a. In the District Court in and for Tulsa County, State of Oklahoma v. James Allen Kirk, Case No. CM-2001-6110, Eluding a Police Officer;
- b. In the District Court in and for Tulsa County, State of Oklahoma v. James Allen Kirk, Case No. CF-2009-1062, Joyriding (misdemeanor).

ALLEGED VIOLATIONS OF LAW

1. Respondent violated 36 O.S. § 1435.13(A)(1); providing incorrect, misleading, incomplete or materially untrue information in the license application.

ORDER

IT IS THEREFORE ORDERED by the Insurance Commissioner that Respondent is hereby **CENSURED** and **FINED TWO HUNDRED DOLLARS (\$200.00)** for violations of 36 O.S. § 1435.13(A)(1). **The \$200.00 fine is to be paid within thirty (30) days** made payable to the Oklahoma Insurance Department. The \$200.00 civil fine shall be paid by money order or cashier's check. Respondent's application for a resident insurance producer license may be granted upon receipt of payment of the fine and reporting of the administrative action. Failure to pay the civil fine or request a hearing within thirty (30) days will result in your license application being withdrawn.

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 Sara A. Worten, Oklahoma Insurance Department, Legal Division, 3625 NW 56th St., 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, Alleged Violations 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 26th day of October, 2016.



JOHN DOAK
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

A handwritten signature in black ink, appearing to read "Sara A. Worten", written over a horizontal line.

Sara A. Worten
Assistant General Counsel
3625 NW 56th St., Suite 100
Oklahoma City, OK 73112
(405) 521-2746

CERTIFICATE OF MAILING


I, Sara A. Worten, 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 ____ day of October, 2016, to:

James Allen Kirk, II
1620 N. Frisco Rd.
Tuttle, OK 73089

CERTIFIED MAIL NO. 7016 0910 0000 5833 3769

and a copy was delivered to:

Karen Wojtek
Licensing Division



Sara A. Worten
Assistant General Counsel

U.S. Postal Service™
CERTIFIED MAIL® RECEIPT
 Domestic Mail Only

For delivery information, visit our website at www.usps.com™.

OFFICIAL USE

7016 0910 0000 5833 3769

Certified Mail Fee \$ _____

Extra Services & Fees (check box, add fee as appropriate)

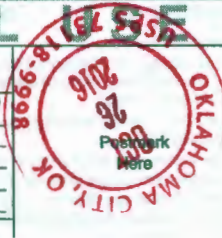
Return Receipt (hardcopy) \$ _____

Return Receipt (electronic) \$ _____

Certified Mail Restricted Delivery \$ _____

Adult Signature Required \$ _____

Adult Signature Restricted Delivery \$ _____



Postage \$ _____

Total Postage and Fees \$ _____

Sent To _____

Street and Apt. No., or P.O. Box _____

City, State, ZIP+4® _____

James Allen Kirk, II
 1620 N. Frisco Rd.
 Tuttle, OK 73089
16-0987-DEN/SAW(mt)
(Cond.Adm.Ord. & Notice ~10-26-16)

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

James Allen Kirk, II
 1620 N. Frisco Rd.
 Tuttle, OK 73089
16-0987-DEN/SAW(mt)
(Cond.Adm.Ord. & Notice ~10-26-16)



9590 9402 1900 6104 4169 65

2. Article Number (Transfer from service label)

7016 0910 0000 5833 3769

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Addressee

B. Received by (Printed Name) James Kirk C. Date of Delivery 11/23/16

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

RECEIVED
 OKLAHOMA INSURANCE DEPARTMENT
 NOV 23 2016

Legal Division

3. Service Type

Adult Signature Priority Mail Express®

Adult Signature Restricted Delivery Registered Mail™

Certified Mail® Registered Mail Restricted Delivery

Certified Mail Restricted Delivery Return Receipt for Merchandise

Collect on Delivery Signature Confirmation™

Collect on Delivery Restricted Delivery Signature Confirmation Restricted Delivery

Insured Mail

Insured Mail Restricted Delivery (over \$500)

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

Domestic Return Receipt