

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

STATE OF OKLAHOMA, ex rel., JOHN D. )  
DOAK, Insurance Commissioner, )  
 )  
Petitioner, )  
 )  
vs. )  
 )  
WHITNEY JORDAN MANNING, a )  
licensed resident insurance producer, )  
 )  
Respondent. )

**FILED**

AUG 21 2017

INSURANCE COMMISSIONER  
OKLAHOMA

17-0394-DEN

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

This matter came on pursuant to a Notice of Hearing and Order to Show Cause filed by Petitioner on June 30, 2017. Petitioner, State of Oklahoma, ex rel., John D Doak, Insurance Commissioner, appeared by counsel, Lisa M. Torneten, Assistant General Counsel. Respondent, Whitney Jordan Manning appeared in person and with counsel, Christi Panter. After hearing the testimony of witness and examining exhibits offered by the parties, the undersigned finds and orders as follows:

**JURISDICTION**

1. Petitioner is the Insurance Commissioner of the State of Oklahoma who is charged with the responsibility to administer and enforce the insurance laws of the State as well as regulations lawfully promulgated by the office of the Insurance Commissioner.

2. Respondent, Whitney Jordan Manning, is a licensed insurance producer in the State of Oklahoma holding producer license number 40133505. Her address of record is 1006 West Willow Road, Enid, Oklahoma 73703.

3. The Oklahoma Department of Insurance has jurisdiction of the parties and subject matter hereof pursuant to 36 O.S., 2011, §101-7301.

### **FINDINGS OF FACT**

#### ***INTRODUCTION***

On May 23, 2017, Respondent made application for renewal of her producer license. (Petitioner Exhibit 1). In answer to specific questions therein, she responded that she had been charged with crimes in Garfield County and Oklahoma County. Thereafter, the Insurance Commissioner denied her application for renewal by letter dated June 12, 2017. The letter (Respondent's Exhibit 1) said that the application had been denied for three reasons: (1) that Respondent had violated 36 O.S., 2011 §1435.13(A)(2) by 'violating insurance laws, or violation of a regulation or subpoena or order of the Insurance Commissioner or of another state's insurance commissioner; (2) by violating 36 O.S., 2011, §1435.7(C) by allegedly failing to demonstrate that she was competent, trustworthy, financially responsible and of good personal and business reputation; and, (3) by violating 36 O.S., 2011, §1435.13(A)(8) by using fraudulent, coercive or dishonest practices or by demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in the state or elsewhere.

However, the only factual allegation in the Order to Show Cause was that Respondent had been charged with three criminal cases, two of which were filed in the District Court of Garfield County and one of which had been filed in the District Court of Oklahoma County. The Petitioner's filing did not allege, and the evidence did not show, that Respondent had been convicted of anything. Rather, as of the hearing, she stood on pleas of not guilty in all cases. It also pointed out that the two Garfield County cases had been reduced to misdemeanors. In fact, the evidence established that

there had been no conviction in any of the cases. The alleged violations of law in the Order were the same as those cited in the Commissioner's letter of denial.

Accordingly, the issues to be determined are:

1. Whether Respondent had violated some insurance law, regulation or order of the Commissioner or whether she had violated some subpoena.

2. Whether Respondent had, in the course of using her license, had employed some fraudulent, coercive or dishonest practice, or, whether she had done or failed to do something which demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in the state or elsewhere; and,

3. Whether Respondent had failed to demonstrate to the Commissioner that she was competent to have her license, or whether she was financially responsible and was of good personal and business reputation.

The evidence consisted of the testimony of Courtney Khotobash, Manager of the Licensing Division and Respondent. Multiple exhibits were introduced including court records, medical records, and many letters of recommendation (admitted without objection) which spoke directly to the good reputation of Respondent as a person and as a businesswoman. Subsequent to the hearing Respondent supplemented the record with further medical information which she sought to have filed under seal.

Her motion to Supplement the Record is granted. In addition, and given the sensitive and confidential information submitted in the supplementation of the record, the undersigned orders that the same be sealed and not spread upon the public record in the absence of a court order requiring their disclosure.

**FINDINGS AND CONCLUSIONS**

***I. ALLEGED INSURANCE LAW VIOLATION(S)***

1. Petitioner's denial letter and the Notice and Order claim that Respondent's license was denied, in part, for allegedly violating insurance laws and/or regulations of the Insurance Commissioner or those of any other state and/or violating a subpoena. Neither party to this proceeding offered any evidence that Respondent violated any law, regulation or subpoena at any time. Accordingly, the proof fails to establish a violation of 36 O.S., 2011, §1413(A)(2) by the Respondent.

***II. ALLEGED VIOLATIONS OF INSURANCE  
CODE BY USING FRAUDULENT COERCIVE OR  
DISHONEST PRACTICES***

2. Likewise, the Commissioner denied Respondent's Application for Renewal because she allegedly used fraudulent, coercive or dishonest practices or by demonstrating untrustworthiness or financial irresponsibility in the conduct of business in the state or elsewhere.

- A. The undersigned takes seriously any claim that Respondent committed fraud or dishonesty or that she acted coercively in her business practices.
- B. The evidence established that the Respondent had been a responsible procuring agent for the entire time she has been licensed and the Petitioner offered no facts or evidence to support this alleged ground. Indeed, the evidence established that the Licensing Division never investigated any claim of fraud or misconduct in business before making the claim.
- C. Likewise, there was no evidence that Respondent acted coercively in her business practices, or, that she had done or failed to do anything which

demonstrated incompetence or untrustworthiness or financial irresponsibility in the conduct of her business. On cross-examination, Ms. Khotobash testified that there had been no administrative action taken against Respondent at any time prior to her renewal application, and, she further admitted that the Commissioner had not even had a complaint about Respondent or her business practices.

- D. On the other hand, Respondent testified that she had been an active and honest agent during the entire time of her licensure. In addition, she offered the statements of her clients who spoke directly to her honesty and competence as an insurance agent. (Respondent's Exhibit 7). Mark Acates, Executive Vice President of the First State Bank of Enid has found her to be a hard worker who has taken excellent care of her business with the Bank. Shawn Hughes, owner of Enid Superlube said Respondent was a dedicated individual in her personal and professional life and that she has always been professional, kind and generous. Alexandria May, Realtor, RE/MAX Premier, who is familiar with Respondent as a professional, said she also referred several of her clients to Respondent for insurance business and that she had never had a bad review of Respondent's work ethic or professionalism. Another client, Katy Mateaki said Respondent was dependable, responsible, honest, courteous and had always taken care of her business.
- E. In sum, the evidence of honesty and competence of Respondent is undisputed

in the evidence. Petitioner can only offer the criminal charges against Respondent on that issue. However, the fact of a criminal charge or charges without more means nothing of value on these questions. Moreover, Respondent's admission in her letter of explanation that she has smoked marijuana, standing alone, is equally of no evidentiary value on the issues to be decided in this proceeding.

### ***III. STATUTORY QUALIFICATIONS FOR RENEWAL/LICENSURE***

3. The final reason given by the Commissioner for denial of Respondent's Renewal Application is that she failed to demonstrate to the Insurance Commissioner that she is competent, trustworthy and financially responsible and of good personal and professional reputation. There is a difference, in law, between reputation and character. Reputation, which is the standard set forth in 36 O.S., 2011, §1435.7(C) speaks to how Respondent is viewed by the community and by her insurance clients.<sup>1</sup>

4. It is not lost on the undersigned that during her entire time as a producing agent (since 2015) Respondent has never had a complaint concerning her conduct or her business practices lodged with the Insurance Commissioner. Likewise, she has never been disciplined or even investigated for misconduct.

5. The evidence of her business reputation and her personal reputation was spoken of at length by the clients whose statements were admitted into evidence and which have been described in paragraph 2(D) above.

---

<sup>1</sup> No evidence was introduced establishing that Respondent was a person of bad character.

**CONCLUSION**

The undersigned finds the evidence presented during and after the hearing in this matter fails to establish any ground to deny renewal of producer license number 40133505 issued to Respondent, Whitney Jordan Manning. Accordingly, the decision of the Insurance Commissioner denying her renewal application is set aside and the Oklahoma Insurance Department is directed to rescind its denial letter and grant the requested renewal.

Charles F. Alden, III, OBA #0187  
CHARLES F. ALDEN, III, INC., P.C.  
309 N.W. 9th Street  
Oklahoma City, OK 73102  
(405) 235-5255  
(405) 235-8130 fax

  
ADMINISTRATIVE LAW JUDGE

**CERTIFICATE OF MAILING**

On the 21<sup>st</sup> day of August, 2017, I hereby certify that a true and correct copy of the above and foregoing document was mailed via U.S. Mail, postage prepaid thereon, to:

Christi Panter, Esq.  
302 N. Independence, Suite 1000  
Enid, OK 73106  
*Attorney for Respondent*

Lisa M. Torneten  
Asst. General Counsel  
Oklahoma Insurance Department  
3625 N.W. 56<sup>th</sup> Street, Suite 100  
Oklahoma city, OK 73112

