

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED
JAN 09 2018
INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. JOHN D. DOAK, Insurance Commissioner,)
)
)
Petitioner,)
)
vs.)
)
EARL EUGENE "GENE" POINTS, a licensed)
bail bondsman in the State of Oklahoma,)
)
Respondent.)

CASE NO. 17-0622-DIS

FINAL ADMINISTRATIVE ORDER

This matter is a disciplinary proceeding under the Oklahoma Bail Bond Act, 59 O. S. §§ 1301-1341, and came on for a Show Cause Hearing on November 29, 2017. Petitioner, State of Oklahoma, ex rel. John D. Doak, Insurance Commissioner, appeared and was represented by counsel, Sara A. Worten, Assistant General Counsel. Respondent, Earl Eugene "Gene" Points, appeared and was represented by counsel, Ronald Kaufman.

Upon consideration of the evidence the Hearing Examiner makes the following findings of fact and conclusions of law.

FINDINGS OF FACT

1. John D. Doak is the Insurance Commissioner of the State of Oklahoma and, as such, is charged with the duty of administering and enforcing all provisions of the Oklahoma Bail Bond Act, 59 O. S. §§ 1301-134.

2. Respondent Earl Eugene "Gene" Points ("Respondent") was a licensed bail bondsman in the State of Oklahoma holding license number 200112 with surety appointments from American Contractors Indemnity Company ("ACIC"), American Surety Company ("ASC"), and Indiana Lumbermens Mutual Insurance Company ("ILMIC"). He was previously

a managing general agent (“MGA”) for ILMIC, ACIC and ASC. Respondent’s mailing address of record with the Oklahoma Insurance Department is 313 State Street, Muskogee, Oklahoma 74401-6350. Gene Point’s license expired on August 31, 2017.

3. Gene Points is the president of Advantage Services Group, Inc. d/b/a Advantage Bail Bonds and has signing authority on behalf of the corporation. Advantage Services Group, Inc., d/b/a Advantage Bail Bonds is hereinafter referred to as “Advantage Bail Bonds”.

4. The Insurance Commissioner has jurisdiction over the subject matter raised in this dispute and may issue penalties pursuant to *59 O.S. § 1310*.

5. Petitioner afforded Respondent an opportunity for hearing by delivering the *Amended Notice of Hearing and Order to Show Cause* to Respondent on November 3, 2017 by certified mail. The *Amended Notice of Hearing and Order to Show Cause* stated the matters asserted, stated the time, place and nature of the hearing, cited legal authority and jurisdiction, and referred to particular sections of the statutes involved. Respondent’s prior attorney, Stephen Money, filed an *Application to Withdraw as Counsel for Respondent* on November 3, 2017. The Application was granted on November 6, 2017.

6. Respondent’s counsel, Ronald Kaufman filed his entry of appearance on November 6, 2017.

7. Respondent filed a second Request for Continuance on November 7, 2017, which was granted over the Department’s Objection. The matter was continued for hearing to November 29, 2017.

8. Respondent filed a *Reply to Notice of Hearing and Order to Show Cause* on November 29, 2017.

9. The Insurance Commissioner appointed Stephen S. Mathis to hear the case as the independent Hearing Examiner pursuant to *59 O.S. § 1311.1*.

10. The hearing was recorded electronically by an employee of the Oklahoma Insurance Department.

11. The following exhibits were introduced and admitted:

- i. Petitioner's Exhibit 1 – List of Respondent's bail bondsmen by appointment from 2016 to date of hearing;
- ii. Petitioner's Exhibit 2 – June 2017 Insufficient Funds Notice;
- iii. Petitioner's Exhibit 3 – July 2017 Insufficient Funds Notice;
- iv. Petitioner's Exhibit 4 – August 2017 Insufficient Funds Notice;
- v. Petitioner's Exhibit 5 – September 2017 Insufficient Funds Notice;
- vi. Petitioner's Exhibit 6 – Administrative History of Respondent's bail bondsmen and corresponding final orders (supplemented at end of hearing);
- vii. Petitioner's Exhibit 7 – Respondent's Administrative History;
- viii. Petitioner's Exhibit 8 – Consent Order in Case No. 16-0913-DIS;
- ix. Petitioner's Exhibit 9 – First Fine Payments for 16-0913-DIS returned as insufficient funds;
- x. Petitioner's Exhibit 10 – Second Fine Payments for 16-0913-DIS returned as insufficient funds;
- xi. Petitioner's Exhibit 11 – Conditional Order in Case No. 17-0497-DIS;
- xii. Petitioner's Exhibit 12 – Insufficient Funds Checks Written to Tulsa County Court Clerk's Office by Respondent;
- xiii. Petitioner's Exhibit 13 – Deferred Prosecution Agreement between Respondent and Tulsa County District Attorney's Office;
- xiv. Respondent's Exhibit R1- Bogus Check Payment Confirmation.

12. The following witness were sworn and testified under oath:

- a. Carol Ryan, Supervisor of the Bail Bonds Division of the Oklahoma Insurance Department
- b. Rick Koch, Oklahoma Insurance Department Anti-Fraud Unit Investigator
- c. Sherry Standerfer, Legal Assistant for the Legal Department of the Oklahoma Insurance Department
- d. Respondent Earl Eugene "Gene" Points

13. Carol Ryan, Supervisor of the Bail Bonds Division, testified to the following relevant information:

a. Respondent was a MGA and licensed bail bondsmen until his license expired on August 31, 2017.

b. From 2016 to present, Respondent was the MGA for bail bondsmen as detailed in Exhibit 1. *See Exhibit 1* List of Respondent's bail bondmen by appointment for 2016 to date of hearing.

c. *59 O.S. § 1314 (D)* requires each bail bondsman to submit to the Insurance Commissioner a monthly report of the bondsman. If new liability is written that month the bail bondsman is required to submit a reviewal fee to the Insurance Commissioner. The amount of the reviewal fee is equal to two-tenths of one percent (2/10 of 1%) of the new liability written for that month. The fee shall be payment to the Insurance Commissioner who shall deposit the same with the State Treasurer. *59. O.S. § 1314 (D.)*

d. In July 2017, Respondent submitted his June 2017 monthly report showing outstanding liabilities and the new bonds written for the month.

e. Based on the June 2017 report, Respondent owed One Thousand Two Hundred Twenty-nine Dollars and 47/100 (\$1,229.47) in reviewal fees.

f. On July 27, 2017 the State Treasurer notified the Department that Respondent submitted insufficient funds for payment of June 2017 reviewal fees on July 17, 2017. *See Exhibit 2*, June 2017 Report Insufficient Funds Notice. To date the funds have not been replaced.

g. In August 2017, Respondent submitted his July 2017 monthly report showing outstanding liabilities the new bonds written for the month.

h. Based on the July 2017 report, Respondent owed Fifteen Dollars (\$15.00) in reviewal fees.

i. On August 31, 2017, the State Treasurer notified the Department that Respondent submitted insufficient funds for payment of July 2017 reviewal fees on August 23, 2017. *See Exhibit 3, July 2017 Report Insufficient Funds Notice.* To date the funds have not been replaced.

j. In September 2017, Respondent submitted his August monthly report showing outstanding liabilities and new bonds written for the month.

k. Based on the August 2017 Report, Respondent owed Eight Hundred Sixty-six Dollars and Twenty-five Cents (\$866.25) in reviewal fees.

l. On September 27, 2017, the State Treasurer notified the Department that respondent submitted insufficient funds for payment of the August 2017 reviewal fees. *See Exhibit 4, August 2017 Report Insufficient Funds Notice.* To date the funds have not been replaced.

m. In October 2017, Respondent submitted his September 2017 monthly report which would show any new bonds written for the month and outstanding liabilities.

n. Respondent did not write any new bonds during September 2017 but did still have outstanding liabilities requiring a report to be filed. The reports are to be filed electronically and there is a submittal fee of Three Dollars (\$3.00) per report.

o. Respondent uploaded three reports, one for each company in which he as an appointment or has outstanding liability.

p. On October 26, 2017, the State Treasurer notified the Department that Respondent submitted insufficient funds for payment of the submittal fee for the September 2017 reports. *See Exhibit 5, September 2017 Report Insufficient Funds Notice.* To date the funds have not been replaced.

14. Sherry Standerfer, Legal Assistant in the Legal Department of the Oklahoma Insurance Department testified to the following relevant information:

a. That she is a Legal Assistant in the Legal Department for the Oklahoma Insurance Department.

b. That she is the person responsible for maintaining the administrative histories for all entities and persons regulated by the Department, including bail bondsmen.

c. That of the 22 bondsmen which reported to Respondent from 2016 to the date of this hearing, 7 of them had 27 bond forfeitures which they failed to properly resolve within the 90 days allowed by statute. See Exhibit 6 Administrative History of Respondent's bail bondsmen.

d. On or about February 23, 2017, Respondent by and through his attorney, Steve Money, entered into a Consent Order in State of Oklahoma, ex rel, John D. Doak, Insurance Commissioner v. Cassandra Mounger, Earl Eugene "Gene" Points and Indiana Lumbermens Mutual Insurance Company Case No. 16-0913-DIS which ordered each respondent to pay a fine of Two Thousand Dollars (\$2,000.00) immediately. See Exhibit 8, Consent Order. On or about March 23, 2017, Respondent issued three checks to the Department each written on an Advantage Bail Bonds account. Each check was in the amount of Two Thousand Dollars (\$2,000.00). All three checks were returned as insufficient funds. See Exhibit 9, First Payments for 16-0913-DIS. On June 13, 2017, Respondent issued a replacement check in the amount of Four Thousand Two Hundred Fifty Dollars (\$4,250.00). Per instructions of Respondent's attorney the check was to cover Respondent's fine and Cassandra Mounger's fine. Again that check was returned for insufficient funds. See Exhibit 10, Second Payment for 16-0913-DIS. Respondent issued a replacement payment for Ms. Mounger's Two Thousand Dollar (\$2,000.00)

fine in September 2017, but to date he has not replaced the full amount to cover the checks written by Respondent in 16-0913-DIS. In addition, Respondent has not paid his fine as ordered in 16-0913-DIS.

e. On July 20, 2017, the Department issued a Conditional Order in *State of Oklahoma, ex rel. John D. Doak, Insurance Commissioner v. Earl Eugene Points* in Case Number 17-0497-DIS. Respondent was served on July 24, 2017, and his last day to request a hearing was August 23, 2017. Respondent did not request a hearing and to date has not paid the Five Hundred Dollar (\$500.00) fine issued in the Order. See Exhibit 11, Conditional Order

15. Oklahoma Insurance Department Anti-Fraud Unit Investigator Rick Koch testified to the following relevant information:

a. That he is an investigator with the Department.

b. He was assigned to investigate a matter involving Respondent as a result of a complaint to the Department's Bail Bonds Division.

c. The complaint was by the Tulsa County District Court Clerk for two bogus checks written by the Respondent to the Tulsa County District Court Clerk's office for two bonds ordered to forfeited.

d. Investigator Koch reported that on or about May 11, 2017, Respondent submitted payment on behalf of Casey Gaines, a bondsman for which he was the MGA, for a bond forfeiture out of Tulsa County District Court Case Number CM-16-5670 to the Tulsa County District Court Clerk in the amount of Six Hundred Dollars (\$600.00) ("Check 1"). Check 1 was returned as insufficient funds. See Exhibit 12, Returned Checks.

e. Investigator Koch reported that on or about May 11, 2017, Respondent submitted payment on behalf of Casey Gaines for a bond forfeiture out of Tulsa County District Court Case

Number CF-16-458 to the District Court Clerk in the amount of Three Thousand Dollars (\$3,000.00) (“Check 2”). Check 2 was returned as insufficient funds. *See Exhibit 12*, Returned Checks.

f. The Tulsa County District Court Clerk filed a complaint with the Bogus Check Division of the Tulsa County District Attorney’s Office. The Tulsa County District Attorney entered into a deferred prosecution agreement (“DPA”) with Respondent. In the DPA, Respondent admitted to writing Check 1 and Check 2 without sufficient funds in the account. He further admits that the funds were not replaced within five (5) days of the date the checks were presented for payment in violation of Title 21 Chapter 61 of the Oklahoma Statutes, specifically *21 O.S. §§ 1541.1, 1541.2*. *See Exhibit 13*, DPA.

g. Investigator Koch reported that Respondent is not making restitution payments as required by the DPA.

16. Respondent Earl Eugene “Gene” Points testified to the following relevant information:

a. Respondent stated that he was a bail bondmen and the MGA for the multiple bail bondsman specifically the ones listed in Exhibit 1. He stated that he was responsible for them in varying degrees depending on if they are considered liable or not-liable to the insurer for the bonds. If they fall under the category as not-liable then he as the MGA is liable to the insurer for the bonds written.

b. Respondent admitted that he wrote the two checks to the Tulsa County Court Clerk’s Office, that those checks were returned as insufficient funds, and that he failed to replace the funds.

c. Respondent admitted that he entered into the DPA with the Tulsa County District Attorneys' office in which he admitted to committing a crime.

d. Respondent testified that he is responsible as a bail bondsman for submitting monthly reports indicting his outstanding liability and new bonds written.

e. Respondent testified that should his license be renewed he would be prepared to make payment to the Department for outstanding fees and fines, therefore agreeing that the fines and fees that Ms. Standerfer and Ms. Ryan testified as outstanding or insufficient have not been paid.

CONCLUSIONS OF LAW

1. The Insurance Commissioner has jurisdiction over this matter and Respondent.

2. That Respondent was provided adequate notice and a hearing as required by law pertaining to the allegations made by the Department in its *Amended Notice of Hearing and Order to Show Cause*, filed on November 1, 2017.

3. That the Respondent appeared on November 29, 2017, at the hearing and was represented by counsel Ronald Kaufman.

4. That based on the above provided findings of fact, there is clear and convincing evidence to find that Respondent has committed the following violations:

a. Respondent has violated 59 O.S. § 1310(A)(1) by not being competent, trustworthy, financially responsible, and of good personal and business reputation and character as required in 59 O.S. § 1305(A)(2). Specifically, Respondent submitted insufficient funds for fine payments four times in Case number 16-0913-DIS to the Insurance Commissioner, submitted insufficient funds for renewal and submittal fees for his monthly reports from June

2017 through September 2017, and submitted two bogus checks to the Tulsa County Court Clerk's Office.

b. Respondent has violated *59 O.S. § 1310(A)(2)* by violating Title 21 Chapter 61 of the Oklahoma Statutes by writing two bogus checks to the Tulsa County District Clerk for two bonds which were forfeited and ordered to be paid.

c. Respondent has violated *59 O.S. § 1310(A)(6)* by demonstrating financial irresponsibility in conducting business under the license by writing two bogus checks to the Tulsa County District Clerk, writing four checks to the Oklahoma Insurance Department which were returned as insufficient funds, and submitting insufficient electronic funds transfers to cover the required reviewal and submittal fees for the June 2017 through September 2017 reports.

d. Respondent has violated *59 O.S. § 1310(A)(7)* in that he has failed to comply with a proper order issued by the Commissioner on two occasions by failing to pay the fines ordered in 16-0913-DIS and in 17-497-DIS.

e. Respondent has violated *59 O.S. § 1310(A)(29)* in that he uttered an insufficient or uncollected check or electronic funds transfer to the Insurance Commissioner for his required June 2017 through September 2017 reviewal fees.

ORDER

IT IS THEREFORE ORDERED that Earl Eugene "Gene" Points' license is hereby **revoked**. Respondent is ordered to pay the cost of the proceeding the amount of Seven Hundred Fifty Dollars (\$750.00) and is assessed a **civil fine** in the amount of Ten Thousand Five Hundred Dollars (\$10,500.00). The civil fine is explained as follows:

1. \$1,000.00 per insufficient check (bogus check) written and insufficient electronic funds transfer,
 - a. Respondent issued six (6) insufficient (bogus) checks, and
 - b. Respondent issued four (4) insufficient funds transfers.

2. \$250 for each Order of the Insurance Commissioner he failed to comply with
 - a. Case number 16-0913-DIS *State of Oklahoma, ex rel, John D. Doak, Insurance Commissioner v. Cassandra Mounger, Earl Eugene "Gene" Points and Indiana Lumbermens Mutual Insurance Company, and*
 - b. Case number 17-497-DIS *State of Oklahoma, ex rel. John D. Doak, Insurance Commissioner v. Earl Eugene Points.*

Done this 9th day of January, 2018.



Stephan S. Mathis

STEPHAN S. MATHIS
INDEPENDENT HEARING EXAMINER
OKLAHOMA INSURANCE DEPARTMENT

CERTIFICATE OF MAILING

I, Sara A. Worten, hereby certify that a true and correct copy of the above and foregoing Final Administrative Order was mailed by certified mail and electronically mailed on this 9th day of January, 2018 to:

Earl Eugene "Gene" Points
313 State Street
Muskogee, OK 74401-6350


CERTIFIED MAIL NO. 7016 2140 0000 3555 3268

Ronald Kaufman
Kaufman & Richardson, LLLP
330707 Cyclone Hollow Lane
Wagoner, OK 74467
Attorney for Respondent

CERTIFIED MAIL NO. 7016 2140 0000 3555 3275

and a copy was delivered to:

Lewis Garrison
Carol Ryan
Bail Bonds Division


Sara A. Worten
Assistant General Counsel

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Adult Signature Required \$ _____

Adult Signature Restricted Delivery \$ _____

Postage \$ _____

Total Postage and Fees \$ _____

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City, State, ZIP+4® _____



EARL EUGENE GENE POINTS
 313 STATE ST
 MUSKOGEE OK 74401-6350
 9214 8902 0982 7500
 17-0622-DIS/SAW(mt)
 (Final Adm.Ord.-01-09-18)

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 Number

EARL EUGENE GENE POINTS
 313 STATE ST
 MUSKOGEE OK 74401-6350
 9214 8902 0982 7500
 17-0622-DIS/SAW(mt)
 (Final Adm.Ord.-01-09-18)

7016 2140 0000 3555 3268

COMPLETE THIS SECTION ON DELIVERY

A. Signature Agent
 Tina Whisendunt Addressee

B. Received by (Printed Name) *Tina Whisendunt*

C. Date of Delivery *1-11-18*

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

OKLAHOMA INSURANCE DEPARTMENT
 JAN 17 2018
 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 Signature Confirmation Restricted Delivery (over \$500)

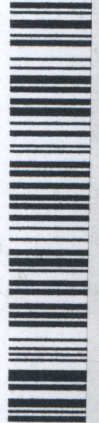
Insured Mail Restricted Delivery (over \$500)

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



JOHN D. DOAK
Insurance Commissioner
 Oklahoma Insurance Department
 5 Corporate Plaza
 3625 NW 56th Street, Suite 160
 Oklahoma City, OK 73112-4511

7016 2140 0000 3555 3275



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:
 Ronald Kaufman
 Kaufman & Richardson, LLP
 330707 Cyclone Hollow Lane
 Wagoner, OK 74467
 Attorney for Respondent
 17-0622-DIS/SAW(mt)
 (Final Adm.Ord.-01-09-18)



9590 9402 3299 7196 6463 89

2. Article Number (Transfer from service label)
 7016 2140 0000 3555 3275

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

COMPLETE THIS SECTION ON DELIVERY

A. Signature
X Agent
 Addressee

B. Received by (Printed Name) C. Date of Delivery

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

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 JAN 30 2018

3. Service type
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 - Adult Signature Restricted Delivery
 - Certified Mail®
 - Certified Mail Restricted Delivery
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 - Collect on Delivery Restricted Delivery
 - Insured Mail
 - Insured Mail Restricted Delivery (over \$500)
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Postage \$ _____

Total Postage and Fees \$ _____

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Ronald Kaufman
 Kaufman & Richardson, LLP
 330707 Cyclone Hollow Lane
 Wagoner, OK 74467
 Attorney for Respondent
 17-0622-DIS/SAW(mt)
 (Final Adm.Ord.-01-09-18)



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BC: 73112451125 2368N027181-00679

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- Insufficient Address
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- Postage Due



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JAN 29 2018
 MAILROOM

NEOPOST
 01/09/2018
 US POSTAGE