

FILED  
JUN 12 2019  
INSURANCE COMMISSIONER  
OKLAHOMA

**Case No. 19-0168-DIS**

1. That OID has jurisdiction over the subject matter of this action pursuant to 36 O.S. §§ 101-7301.
2. That the Insurance Commissioner has the authority to render an Order concerning the above styled matter and has lawfully appointed Independent Hearing Examiner, Charles Alden, III, who shall sit as a quasi-judicial officer pursuant to 36 O.S. § 319.

3. Respondent holds a nonresident producer license in the State of Oklahoma.

4. *Title 75 § 309* provides that in an individual proceeding, all parties shall be afforded an opportunity for hearing after reasonable notice. The Tenth Circuit Court of Appeals has held that when a mail matter is properly addressed and deposited in the United States Mails with postage duly prepaid thereon, there is a presumption of fact that it was received by the addressee in the ordinary course of mail. *Crude Oil Corporation of America v. Commissioner of Internal Revenue*, 161 F. 2d 809 (10<sup>th</sup> Cir. 1947). The Court in *Moya v. U.S.* discusses that presumption by stating that the law presumes delivery of a properly addressed piece of mail. *Moya v. U.S.*, 35 F. 3d 501, (10<sup>th</sup> Cir. 1994) citing *McPartlin v. Commissioner*, 653 F. 2d 1185, 1191 (7<sup>th</sup> Cir. 1981). OID filed the Notice on March 22, 2019. On March 22, 2019, OID sent the Notice to Respondent by certified mail, postage prepaid and return receipt requested, to Respondent's mailing address of record which was returned as "unclaimed". On April 24, 2019, a Continuance was signed by Hearing Examiner John Miller continuing the matter for hearing to May 20, 2019. The Continuance was mailed by certified mail, returned receipt requested on April 26, 2019 to Respondent's mailing address of record. The Continuance was signed for at Respondent's mailing address of record on May 7, 2019. On May 2, 2019, OID mailed by United States Postal Service First Class mail, the Notice and Continuance to Respondent's mailing address of record and to Respondent's business address of record. The Notice and Continuance sent by First Class mail were not returned. Additionally, OID sent the Notice and Continuance to Respondent's electronic mail address of record on May 2, 2019 and received verification it was delivered. (Testimony of Courtney Khodabakhsh and collectively documented in State's Exhibit 7). Respondent was provided notice as required by the Oklahoma Administrative Procedures Act and the Oklahoma Insurance Code.



5. On or about November 2, 2015, Respondent was issued a nonresident insurance producer license with lines of authority for property in Oklahoma. (Testimony of Courtney Khodabakhsh and Exhibit 1)

6. On the 2015 Oklahoma application form, question 1B asks the following: "Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony? You may exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court)." Respondent answered "No" to this question on the 2015 application. (Testimony of Courtney Khodabakhsh and Exhibit 4)

7. On or about December 14, 2017, Respondent applied for renewal of her nonresident insurance producer license in Oklahoma. (Testimony of Courtney Khodabakhsh and Exhibit 4)

8. On the Oklahoma application form, question 1B asks the following: "Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony? You may exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court)." Respondent answered "No" to this question on the 2017 application. Testimony of Courtney Khodabakhsh and Exhibit 4)

9. On or about December 14, 2017, Respondent's nonresident producer license was renewed. Respondent also received lines of authority for accident & health or sickness and life in Oklahoma. (Testimony of Courtney Khodabakhsh and Exhibit 1)

10. On or about January 28, 2019, PRIMERICA Distribution's Senior Paralegal Analyst, Tracy Gwin, submitted a written consent ("1033 Waiver") from the Texas Department of Insurance relating to Respondent's consent to performing acts of an insurance agent in the

State of Texas dated October 10, 2014. (Testimony of Courtney Khodabakhsh and Exhibit 2 and Exhibit 3)

11. Respondent was placed on probation for ten (10) years on or about June 30, 1994, in Case No. F91-57352J in the 363<sup>rd</sup> Judicial District Court, Dallas County, Texas for conviction of the offense of forgery in the third degree. Respondent was discharged from probation on or about February 9, 2006. (Testimony of Courtney Khodabakhsh and Exhibit 6)

12. On or about February 4, 2019, Oklahoma Insurance Department ("OID") requested additional information from Respondent regarding Respondent's background history including a "detailed letter of explanation...advising why [Respondent] failed to report [her] felony charges to Oklahoma on [her] 2015 and 2017 applications." (Testimony of Courtney Khodabakhsh and Exhibit 5)

13. On or about February 25, 2019, OID again requested additional information, specifically the detailed letter of explanation. (Testimony of Courtney Khodabakhsh and Exhibit 5)

14. OID did not receive the detailed letter of explanation. (Testimony of Courtney Khodabakhsh)

#### **CONCLUSIONS OF LAW**

15. That OID has jurisdiction over this matter and Respondent pursuant to 36 O.S. § 1435.1 *et seq.*

16. That Respondent is licensed by the OID as a nonresident producer pursuant to 36 O.S. § 1435.1 *et seq.*



17. That Respondent was provided adequate notice and a hearing pertaining to the Notice of Hearing and Order to Show Cause filed on March 22, 2019, in accordance with the Oklahoma Insurance Code and the Oklahoma Administrative Procedures Act.

18. Based upon the above provided findings of fact there is clear and convincing evidence to find that Respondent violated the following:

- a) *36 O.S. § 1435.13(A)(1)* by providing incorrect, misleading, incomplete or materially untrue information in the license application for not disclosing a felony conviction in Texas on both the November 2, 2015, and December 14, 2017, applications.
- b) *36 O.S. § 1435.13(A)(3)* by obtaining or attempting to obtain a license through misrepresentation or fraud for not disclosing a felony conviction in Texas on both the November 2, 2015, and December 14, 2017, applications.
- c) *36 O.S. § 1435.13(A)(6)* by being convicted of a felony when Respondent was convicted of forgery in the third degree, a felony, in Texas.

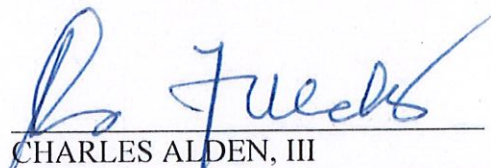
19. The Insurance Commissioner may place on probation, censure, suspend, revoke or refuse to issue or renew a license issued pursuant to the Oklahoma Producer Licensing Act or may impose a civil fine of not less than \$100.00 nor more than \$1,000.00 when an applicant (1) provides incorrect, misleading, incomplete or materially untrue information in the license application; (2) obtains or attempts to obtain a license through misrepresentation or fraud; and (3) has been convicted of a felony. *See 36 O.S. §§ 1435.13(A)(1), (A)(3), (A)(6), and (D).*

**ORDER**

**IT IS THEREFORE ORDERED** that Tia Lashawn Ward's nonresident insurance producer license is hereby revoked. Respondent is ordered to pay the costs of the proceeding in the amount of 375.00 and is fined \$500.00. The Insurance Commissioner shall notify all appointing insurers of the revocation and shall notify the Central Office the National Association of Insurance Commissioners of Respondent's revocation.

Done this 11 day of June, 2019.



  
CHARLES ALDEN, III  
INDEPENDENT HEARING EXAMINER  
OKLAHOMA INSURANCE DEPARTMENT