

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

FILED
OCT 22 2019
INSURANCE COMMISSIONER
OKLAHOMA

**STATE OF OKLAHOMA, ex rel. GLEN
MULREADY, Insurance Commissioner,**

Petitioner,

v.

Case No. 19-0669-DIS

**KIMBERLY DANIELLE SMITH, an applicant
for reinstatement of a nonresident insurance
adjuster license in the State of Oklahoma,**

Respondent.

**CONDITIONAL ADMINISTRATIVE ORDER
AND NOTICE OF RIGHT TO BE HEARD**

COMES NOW the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner, by and through his attorney, Barron B. Brown, and alleges and states as follows:

JURISDICTION AND AUTHORITY

1. Glen Mulready 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 Insurance Adjusters Licensing Act, 36 O.S. §§ 6201- 6223.

2. Kimberly Danielle Smith ("Respondent") is an applicant for reinstatement of a nonresident insurance adjuster license in the State of Oklahoma.

3. Pursuant to 36 O.S. § 6220(A), the Insurance Commissioner may censure, suspend, revoke or refuse to issue or renew an adjuster license issued pursuant to the Act for any of the causes set forth in 36 O.S. § 6220(A)(1)-(16). Further, "[i]n addition to or in lieu of any applicable denial, suspension, or renovation of a license, any person

violating the provisions of the [Act] may be subject to a civil fine of not more than One Thousand Dollars (\$1,000.00) for each violation." 36 O.S. § 6220(B).

ALLEGATIONS OF FACT

1. Pursuant to 36 O.S. § 6202(3) an insurance adjuster is defined as "any person, firm, association, company, or legal entity that acts in this state for an insurer, and that investigates claims, adjusts losses, negotiates claim settlements, or performs incidental duties arising pursuant to the provisions of insurance contracts on behalf of an insurer and includes: [. . .] 'independent adjusters', meaning any insurance adjuster that suggests or presents to the insurance industry and public that said adjuster acts as an adjuster for a fee or other compensation." In addition, 36 O.S. § 6216(A) provides, among other things, that an adjuster can only investigate or report upon claims to a principal on behalf of insurers "if the adjuster is licensed as an insurance adjuster . . ."

2. On September 30, 2018, Respondent's nonresident insurance adjuster license in the State of Oklahoma expired. On September 20, 2019, Respondent submitted an application for reinstatement of her nonresident insurance adjuster license to the Oklahoma Insurance Department's Licensing Division ("OID Licensing").

3. On September 20, 2019, Respondent was asked by OID Licensing if she had adjusted any Oklahoma claims since her license expired. On September 25, 2019, Respondent stated, in essence, that she had been working Oklahoma claims since her license expired.

4. On September 30, 2019, OID Licensing asked Respondent to provide a list of claims she had worked without a license. Respondent provided OID Licensing with the requested list on October 18, 2019. More specifically, the provided list showed that

Respondent had performed adjustment services on approximately twenty-seven (27) insurance claims in the State of Oklahoma without being properly licensed as required by 36 O.S. § 6216(A).

ALLEGED VIOLATIONS OF LAW

1. Respondent violated 36 O.S. § 6220(A)(8), violation of any provision of the Insurance Adjuster Licensing Act, through a violation of 36 O.S. § 6216(A), by investigating or reporting upon claims to a principal on behalf of an insurer without being licensed as an insurance adjuster.

ORDER

IT IS THEREFORE ORDERED by the Insurance Commissioner that Respondent is **FINED ONE HUNDRED DOLLARS (\$100.00)**. **The \$100.00 fine is to be paid within thirty (30) days** made payable to the Oklahoma Insurance Department. The \$100.00 civil fine shall be paid by money order or cashier's check. Respondent's application for reinstatement of her nonresident insurance adjuster 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 Respondent's license application being withdrawn.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner that this Order is a Conditional Order. Unless Respondent requests a hearing with respect to the Allegations of Fact set forth above within thirty (30) days of the date of receipt 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 receipt of this Order. A request for hearing should be in writing addressed to Barron B. Brown,

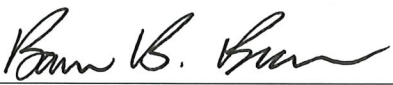
Oklahoma Insurance Department, Legal Division, 3625 NW 56th St., Suite 100, Oklahoma City, Oklahoma 73112. The request for hearing must state the grounds for the request to set aside or modify the Order.

Any such hearing shall be conducted according to the procedures for contested cases under Oklahoma Insurance Code (36 O.S. §§ 101 et seq.), Oklahoma Administrative Code, Title 365 – Insurance Department (O.A.C. 365:1-7-1 through 1-7-9) and the Oklahoma Administrative Procedures Act (75 O.S. §§ 308a et seq.). If 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 22nd day of October, 2019.

GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAHOMA




Barron B. Brown
Assistant General Counsel
Oklahoma Insurance Department
3625 NW 56th St., Suite 100
Oklahoma City, OK 73112
Telephone: (405) 521-2746
Facsimile: (405) 522-0125

CERTIFICATE OF MAILING

I, Barron B. Brown, 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 22nd day of October, 2019, to:

Kimberly Danielle Smith
1050 Lancashire Ln
Prosper, TX 75078-5655

CERTIFIED MAIL NO.

9214 8902 0982 7500 0247 45

and a copy was delivered via electronic mail to:

Licensing Division



Barron B. Brown
Assistant General Counsel



19-0669-Dis
BBB

Date Produced: 11/11/2019

OKLAHOMA INSURANCE DEPARTMENT:

The following is the delivery information for Certified Mail™/RRE item number 9214 8902 0982 7500 0247 45. Our records indicate that this item was delivered on 11/04/2019 at 04:12 p.m. in PROSPER, TX 75078. The scanned image of the recipient information is provided below.

Signature of Recipient :

Kimberly Smith
Kimberly Smith

Address of Recipient :

1050 LANCASHIRE LN
PROSPER, TX 75078-5655

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

KIMBERLY DANIELLE SMITH
1050 LANCASHIRE LN
PROSPER TX 75078-5655

Customer Reference Number: C1698960.9552072