

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

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

Petitioner,

v.

**ROBERT MATTHEW WHEELER,
a resident producer,**

Respondent.

Case No. 20-0078-DIS

FILED
JUL 07 2020
INSURANCE COMMISSIONER
OKLAHOMA

FINAL ADMINISTRATIVE ORDER

This matter is a disciplinary proceeding under the Oklahoma Producer Licensing Act. 36 O.S. §§ 1435.1 et seq. On June 25, 2020, a show cause hearing was held at the Oklahoma Insurance Department ("OID") on OID's Notice of Hearing and Order to Show Cause ("Notice"), filed March 30, 2020. On May 8, 2020, a Continuance was entered continuing the matter for hearing to June 24, 2020 at 10:00 a.m. The hearing was held at the offices of OID before Independent Hearing Examiner Stephan Mathis. Present at the hearing were Antuanya "Bo" DeBose, Assistant General Counsel for OID, Rick Koch for OID's Anti-Fraud Division, and Respondent Robert Matthew Wheeler ("Respondent") appeared pro se.

Witnesses were sworn and testified, exhibits were admitted and argument of the parties heard.

FINDINGS OF FACT

1. That OID has jurisdiction over the subject matter of this action pursuant to 36 O.S. §§ 101-7401, including the Oklahoma Producer Licensing Act, 36 O.S. §1435.1 et seq..

2. That the Insurance Commissioner has the authority to render an Order concerning the above styled matter and has lawfully appointed Independent Hearing Examiner, Stephan Mathis, who shall sit as a quasi-judicial officer pursuant to 36 O.S. § 319.

3. Respondent holds a resident producer license number 80164 and is licensed by the State of Oklahoma. Respondent's address of record is 6810 East 50th Place, Tulsa, Oklahoma 74145-5835.

4. 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 36 O.S. § 1435.13(A) and (D).

5. Petitioner afforded Respondent an opportunity for hearing by sending the *Notice of Hearing and Order to Show Cause* by certified mail return receipt requested and by electronic mail on March 30, 2020 to Respondent. The *Notice of Hearing and Order to Show Cause*, filed on March 30, 2020, stated the matters asserted, and stated the time, place and nature of the hearing, cited legal authority and jurisdiction, and referred to particular sections of the statutes involved.

6. The hearing was recorded electronically by an employee of the Oklahoma Insurance Department. Neither party requested a full stenographic record of the proceedings.

7. The following exhibits were introduced and admitted:

- a) Exhibit A-1 through A-9: Text messages from Respondent to Joyce Frazier
- b) Exhibit B-1 through B-2: Letter from Lincoln Heritage to Respondent and Respondent's response to that letter
- c) Exhibit C: Lincoln Heritage Termination Letter to Respondent
- d) Exhibit D: Joyce Frazier's Tulsa Police Department Incident Report
- e) Exhibit R-1: Respondent's Better Business Bureau Report

- f) Exhibit R-2: Respondent's High School Diploma
- g) Exhibit R-3: Respondent's NWOSU diploma
- h) Exhibit R-4: Respondent's typed Biography
- i) Exhibit R-5: Respondent's Certificate of Insurance
- j) Exhibit R-6: Respondent's State of Oklahoma Insurance License

8. The following witnesses were sworn and testified under oath:

- a) Rick Koch, Investigator with OID.
- b) Robert Wheeler, Respondent

9. Lincoln Heritage Life Insurance Company ("Lincoln Heritage") terminated Respondent's appointment with their company for cause after receiving multiple complaints alleging inappropriate behavior by Respondent. (See Exhibit C, along with Testimony of Rick Koch and Robert Wheeler)

10. The Anti-Fraud Unit of the Oklahoma Insurance Department received a complaint from Lincoln Heritage alleging Respondent made profane, derogatory and racist comments in person, through text messages and voicemail messages towards two prospective clients, Joyce Frazier ("Ms. Frazier") and Clarence Newton ("Mr. Newton"). Investigator Rick Koch of the Anti-Fraud Unit of the OID was assigned to the case and investigated the matter. (Testimony of Rick Koch)

11. Ms. Frazier informed Investigator Koch that Respondent arrived at her residence unannounced and uninvited after she called a number on a TV commercial for insurance. Ms. Frazier stated to Investigator Koch that Respondent arrived at her residence and immediately entered the residence without being asked. Ms. Frazier told Investigator Koch that this made her feel uncomfortable, however she offered Respondent a seat in her living room and asked him to

wait while she retrieved materials from another room. Ms. Frazier continues to tell Investigator Koch that at this time, Respondent got up from the couch and began following her to the back of the apartment. This caused Ms. Frazier further concern as she became unsure of Respondent's intentions and asked him to leave. (Testimony of Rick Koch.)

12. Ms. Frazier told Investigator Koch that on the following day, Respondent returned to her apartment unannounced and uninvited and again entered through the front door without being asked. Ms. Frazier states when she asked Respondent to leave, he became profane and called her a racial slur. Later, Respondent sent numerous text messages to Ms. Frazier containing profane and racist comments. (See Exhibit A-1 through A-9). As a result of Respondent's behavior, Ms. Frazier contacted the Tulsa Police Department regarding the incident. (See Testimony of Rick Koch and Exhibit D)

13. During his investigation, Investigator Koch interviewed Clarence Newton, who stated that Respondent came to his residence uninvited and knocked on the door very loudly. Mr. Newton stated he made and rescheduled appointments with Respondent several times before meeting with him at a Panera Bread location. During that meeting, Mr. Newton learned that Respondent sold final expense insurance coverage, not life insurance. Respondent later called Mr. Newton with life insurance rates, but became angry when Mr. Newton told Respondent that he had found less expensive coverage. Respondent subsequently left two (2) voicemails on Mr. Newton's phone which contained a profane rant by Respondent. (See Testimony of Rick Koch)

14. Respondent has admitted he sent the profane text messages to Ms. Frazier, stating what Ms. Frazier said to him provoked him to do so. Respondent also admitted to leaving the voice mail messages on Mr. Newton's phone, stating he was frustrated with Mr. Newton. (See Testimony of Rick Koch and Robert Wheeler)

15. In his reply to Lincoln Heritage regarding his encounter with Mr. Newton, Respondent refers to Mr. Newton as a "moron" and "a sissy." (See Exhibit B-1 through B-2 and Testimony of Robert Wheeler)

CONCLUSIONS OF LAW

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

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

18. That Respondent was provided adequate notice and a hearing pertaining to the Notice of Hearing and Order to Show Cause filed on March 30, 2020, in accordance with the Oklahoma Insurance Code and the Oklahoma Administrative Procedures Act.

19. 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)(8), demonstrating untrustworthiness and using coercive tactics by arriving uninvited and unannounced to Ms. Frazier's residence and making profane, derogatory and racist comments both in person and through text messages.
 - b) 36 O.S. § 1435.13(A)(8) demonstrating untrustworthiness and using coercive tactics by arriving uninvited and unannounced to Mr. Newton's residence, then subsequently leaving (2) profane voicemail messages on Mr. Newton's phone.
- a. 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. In

addition to or in lieu of any applicable denial, probation, censure, suspension or revocation of a license, a person may, after opportunity for hearing, also be subject to a civil fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each occurrence. Said penalty may be enforced in the same manner in which civil judgments may be enforced.

ORDER

IT IS THEREFORE ORDERED that Robert Matthew Wheeler's resident insurance producer license number 80164 is hereby revoked. Respondent is ordered to pay the costs of the proceeding in the amount of \$300.00 and is fined \$1000.00 per incident (\$2000.00 total). 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 6 day of July 2020.




STEPHAN MATHIS
INDEPENDENT HEARING EXAMINER
OKLAHOMA INSURANCE DEPARTMENT

CERTIFICATE OF MAILING

I, Antuanya "Bo" DeBose, hereby certify that a true and correct copy of the above and foregoing Final Administrative Order was mailed by first class U.S. Mail and by certified mail with postage prepaid and return receipt requested on this 7th day of July, 2020 to:

Robert Matthew Wheeler
6810 East 50th Place
Tulsa, Oklahoma 74145-5835

CERTIFIED MAIL No:
9214 8902 0982 7500 0295 28

and that a copy was delivered to:

Licensing Division



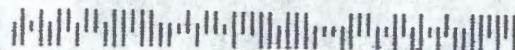
Antuanya "Bo" DeBose



OKLAH
INSURANCE
DEPARTMENT

Legal Division
Insurance Commissioner Glen Mulready
400 NE 50th Street
Oklahoma City, OK 73105

CERTIFIED MAIL



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ROBERT MATTHEW WHEELER
6810 E 50TH PL
TULSA OK 74145-5835

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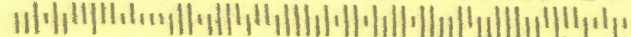
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