

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED

JUN 29 2020

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

INSURANCE COMMISSIONER
OKLAHOMA

Petitioner,

v.

Case No. 20-0275-DIS

E3 HR, Inc.,
a licensed professional employer
organization doing business 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, Kayla M. Rochelle, and alleges and states as follows:

JURISDICTION

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.; and the Oklahoma Professional Employer Organization Recognition and Registration Act, 40 O.S. §§ 600.1-600.9.

2. E3 HR, Inc. ("Respondent") is a foreign, licensed professional employer organization ("PEO") doing business in the State of Oklahoma under license #508217748. Respondent's address of record is 121 Summit Avenue, Summit, New Jersey 07901.

3. The Insurance Commissioner has jurisdiction over the subject matter raised in this dispute and may issue penalties pursuant 40 O.S. § 600.9 and Okla. Admin. Code § 365:25-

30-4.

ALLEGATIONS OF FACT

4. On or about August 27, 2019, the Oklahoma Insurance Department issued an Oklahoma PEO license to Respondent to provide professional employer services pursuant to 40 O.S. § 600.4(A).

5. On or about June 11, 2020, Respondent sent an email to the OID's Regulated Industry Services Division ("RIS Division") stating that its "2019 audited financial statement [would] show . . . a net worth of under \$50,000." Respondent attached a letter from an independent CPA, which stated, "[w]e calculated the net worth, defined as assets less liabilities, using the total assets and total liabilities per the audited financial statements. We calculated a negative net worth of \$692,387 at December 31, 2019. We compared the calculated amount to the requirement of minimum net worth of \$50,000 per Title 40 Sections 600.4(g) and 600.6. We noted net worth equaled less than required minimum net worth of \$50,000."

6. On or about June 11, 2020, Respondent obtained a surety bond pursuant to 40 O.S. § 600.6(A)(2).

7. On or about October 29, 2019, Respondent submitted its payroll tax statement for the third quarter of 2019 in the form of a letter, which stated "[t]his letter is to notify OK Insurance Department that E3 HR, Inc has no wages in Oklahoma in 3Q19. E3 has no payroll to report for 2019 Quarter 3." The letter was signed by Respondent's CEO/President.

8. On or about January 29, 2020, Respondent submitted its payroll tax statement for the fourth quarter of 2019 in the form of a letter, which stated "[t]his letter is to notify OK Insurance Department that E3 HR, Inc has no wages in Oklahoma in 4Q19. E3 has no payroll

to report for 2019 Quarter 4.” The letter was signed by Respondent’s CEO/President.

ALLEGED VIOLATIONS OF LAW

9. Pursuant to 40 O.S. § 600.6(A), “[e]ach PEO shall maintain either . . . [a] minimum net worth of Fifty Thousand Dollars (\$50,000.00), as reflected in the financial statements submitted to the Commissioner with the initial registration and each annual renewal; or . . . [a] bond or securities with a minimum market value of Fifty Thousand Dollars (\$50,000.00), held by a depository designated by the Commissioner, securing payment by the PEO of all taxes, wages, benefits or other entitlement due to or with respect to a covered employee, if the PEO does not make such payments when due. Any bond or securities deposited under this subsection shall not be included for the purpose of calculation of the minimum net worth required by this subsection.”

10. Respondent violated 40 O.S. § 600.6(A) by failing to maintain a minimum net worth of \$50,000 or obtain a surety bond with a minimum market value of \$50,000 for 2019.

11. Pursuant to 40 O.S. § 600.6(B), “[a] PEO shall submit to the Commissioner, within ninety (90) days after the end of each calendar quarter, a statement by an independent certified public accountant that all applicable state payroll taxes for covered employees located in this state have been paid on a timely basis for that quarter.”

12. Respondent violated 40 O.S. § 600.6(B) by failing to submit payroll tax statements by an independent certified public accountant for the third and fourth quarters of 2019.

13. Pursuant to 40 O.S. § 600.9 and Okla. Admin. Code § 365:25-30-4, “[t]he Insurance Commissioner may refuse to register any person, suspend or revoke the registration of any professional employer organization [who has violated any of the provisions of this

section, rules lawfully promulgated by the Commissioner, or the conditions of financial assurances required by the Oklahoma Professional Employer Organization Recognition and Registration Act.] In addition to or in lieu of any applicable denial, suspension or revocation, the applicant or professional employer organization may be subject to an administrative fine of not less than One-Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each violation of the Oklahoma Professional Employer Organization Recognition and Registration Act.”

ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Insurance Commissioner, subject to the following paragraph, that the Respondent hereby shall be fined **Three Hundred Dollars (\$300.00)** for violating 40 O.S. §§ 600.6(A)-(B). Respondent shall pay the \$300.00 fine **within thirty (30) days** of the date of this Conditional Administrative Order. Said payment shall be made payable to the Oklahoma Insurance Department.

Respondent is further notified that it may request a hearing within **thirty (30) days of the date of mailing of this Order**. If Respondent does not request a hearing within **thirty (30) days** of the date mailing of this Order, this Conditional Administrative Order shall become a **FINAL ORDER** on the **thirtieth (30th)** day following mailing of this Order.

A request for hearing shall be made in writing to Kayla M. Rochelle, Assistant General Counsel, Oklahoma Insurance Department, Legal Division, 400 NE 50th Street, Oklahoma City, Oklahoma 73105. The request for hearing must state the grounds to set aside or modify this Conditional Administrative Order. Upon such request, a hearing shall be conducted before an independent hearing examiner.

The hearing will be conducted in accordance with the Oklahoma Insurance Code, 36

O.S. §§ 101 et seq. and the Oklahoma Administrative Procedures Act, 75 O.S. §§ 250 et seq. If Respondent timely serves a request for hearing, this Conditional Order shall act as a 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 of this matter through hearing.

WITNESS My Hand and Official Seal this 26th day of June 2020.



Glen Mulready
Insurance Commissioner
State of Oklahoma

s/ Kayla M. Rochelle

Kayla M. Rochelle, OBA #34014
Assistant General Counsel
400 NE 50th Street
Oklahoma City, OK 73105
Telephone: 405-521-4036
Facsimile: 405-522-0125
Email: Kayla.Rochelle@oid.ok.gov

CERTIFICATE OF MAILING

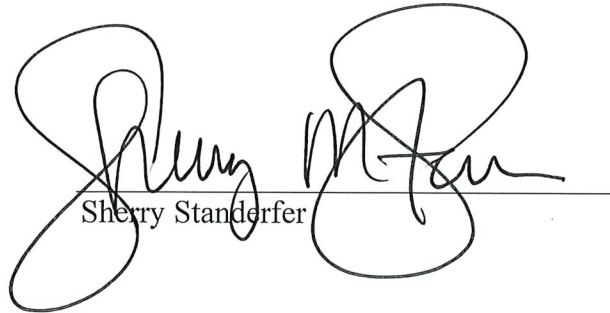
I hereby certify that a true and correct copy of the above and foregoing Conditional Administrative Order and Notice of Right to be Heard was mailed by certified mail, with postage prepaid and return receipt requested, on this 29th day of Jun, 2020, to:

E3 HR, Inc.
121 Summit Avenue
Summit, New Jersey 07091

CERTIFIED MAIL NO. 9214 8902 0982 7500 0294 12

And a copy was delivered to:

Deborah Thetford
Regulated Industry Services Division

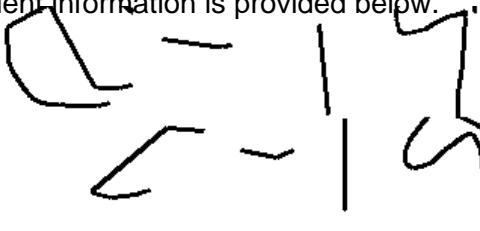

Sherry Standerfer

Date Produced: 07/13/2020

OKLAHOMA INSURANCE DEPARTMENT:

The following is the delivery information for Certified Mail™/RRE item number 9214 8902 0982 7500 0294 12. Our records indicate that this item was delivered on 07/06/2020 at 12:52 p.m. in SUMMIT, NJ 07901. The scanned image of the recipient information is provided below.

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**121 SUMMIT AVE SUMMIT, NJ
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Sincerely,
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The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

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E3 HR INC
121 SUMMIT AVE
SUMMIT NJ 07901-2855

Customer Reference Number: C2138764.12167013

Return Reference Number: SMS/20-0275-DIS (KMR)/Cond Ord.

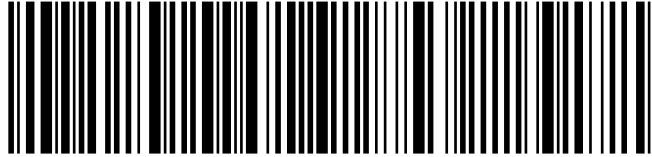
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OKLAHOMA INSURANCE DEPARTMENT
5 CORPORATE PLAZA
OKLAHOMA CITY, OK 73112

Recipient address:

E3 HR INC
121 SUMMIT AVE
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PRE-SHIPMENT INFO SENT USPS AWAITS ITEM	OKLAHOMA CITY,OK 73105	06/30/2020 15:06
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OUT FOR DELIVERY	SUMMIT,NJ 07901	07/06/2020 08:47
DELIVERED LEFT WITH INDIVIDUAL	SUMMIT,NJ 07901	07/06/2020 12:52

CASE NUMBER: 20-0275-DIS

DEPARTMENT: LEGAL/KMR

SENDER: SMS

CUSTOM 4: CONDITIONAL ADMINISTRATIVE ORDER & NOTICE OF RIGHT TO BE HEARD