

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

FILED

MAR 26 2024

STATE OF OKLA., *ex rel.* GLEN)
 MULREADY, *Ins. Comm'r,*)
)
 Petitioner,)
)
vs.)
)
 FIRST PREMIER HOME WARRANTY)
 CORP., *a nonregistered foreign home service*)
contract provider,)
)
 Respondent.)

**INSURANCE COMMISSIONER
OKLAHOMA**

Case No. 23-0777-DIS

**EX PARTE CEASE AND DESIST ORDER WITH CIVIL PENALTIES
AND NOTICE OF RIGHT TO BE HEARD**

Petitioner the State of Oklahoma, *ex rel.* Glen Mulready, Insurance Commissioner (“Commissioner”) issues this Ex Parte Cease and Desist Order with Civil Penalties against Respondent First Premier Home Warranty Corporation (“Respondent”) and, in support, alleges and states:

JURISDICTION

1. Petitioner Glen Mulready is the Insurance Commissioner for the State of Oklahoma and has jurisdiction over this matter pursuant to the Home Service Contract Act (“HSCA”), OKLA. STAT. tit. 36, §§ 6750, *et seq.*

2. Respondent is an unregistered and unauthorized home service contract provider in the State of Oklahoma and was incorporated in the state of New York with its principal place of business located at 918 Utica Avenue, Brooklyn, New York although, upon information and belief, it may also use another address of 2918 Avenue R, Brooklyn, New York.

RIGHT TO HEARING

3. Respondent may request that a hearing be held regarding the allegations asserted herein within twenty (20) days from the date that this Order was entered. 36 O.S. § 6755(B)(1)(a); OAC § 365:1-7-1(b).

4. A request for a hearing must be in writing, whether by mail or electronic mail, must state the specific grounds to be relied upon as a basis for setting aside or modifying this Order, and should be addressed to Seth D. Coldiron, Assistant General Counsel, Oklahoma Insurance Department, Legal Division, 400 NE 50th Street, Oklahoma City, Oklahoma 73105, or, electronically, seth.coldiron@oid.ok.gov. OAC § 365:1-7-1(a).

5. All hearings are open to the public, and Respondent has a right to appear in person and with counsel to present evidence, examine witnesses, and make oral arguments. 75 O.S. §§ 309(C) & 310(3) & (5); OAC § 365:1-7-4(a)-(b).

6. If a hearing is requested, a person affected thereby may, at his or her expense, request a stenographic record of the proceeding be made by a competent court reporter. 75 O.S. § 309(G); OAC § 365-1-7-5(a).

7. The proceedings shall be conducted in accordance with the Oklahoma Administrative Procedures Act, OKLA. STAT. tit. 75, §§ 250 *et seq.*, and the promulgated rules pertaining to the Administrative Operations of the Oklahoma Insurance Department, OKLA. ADMIN. CODE, §§ 365:1-7-1 *et seq.* See, 36 O.S. § 6755(B)(1)(c); 75 O.S. § 309 & 310; OAC §§ 365:1-7-1 – 365:1-7-9.

8. At any hearing, the Commissioner shall bear the burden to show why this Order is justified. 36 O.S. § 6755(B)(1)(c).

FINDINGS OF FACT

9. On August 26, 2021, the California Department of Insurance (“CDI”) entered an Order to Cease and Desist, Notice of Right to Hearing, and Monetary Penalty against Respondent in Case No. VA202100171 (“California Action”).

10. The CDI in the California Action alleged that Respondent through its website (www.lpfirstpremierhomewarranty.com) and a toll-free telephone line (855) 480-3999, among other means, solicited the sale of home protection contracts while unlicensed in violation of California law.

Cynthia Bridges – Complaint No. 118974

11. Cynthia Bridges (“Bridges”) is an Oklahoma resident who resides at 8003 S. Juniper Place in Broken Arrow, Oklahoma.

12. On September 8, 2022, Bridges entered a Home Service Agreement (“HSA”) whereby she agreed to make payments in monthly installments to Respondent, and Respondent promised to pay the cost to repair or replace appliances or fixtures along with the component parts thereof, which purportedly included the oven, range, stove and cooktop and the heating, ventilation, and air conditioning (“HVAC”) unit, subject to certain terms, conditions, and fees.

13. When her oven malfunctioned on April 27, 2023, Bridges submitted a claim for repairs to Respondent per her HSA.

14. Respondent arranged for a technician who came to Bridges’ residence, inspected the oven, demanded a Forty-five Dollar (\$45.00) payment from Bridges, which she paid, and then left without repairing the oven.

15. Over the next several weeks, Bridges attempted to contact both the technician and Respondent without success.

16. On May 8, 2023, Bridges spoke with Respondent's representative concerning her oven and, also, attempted to submit another claim for repair of her HVAC, which had also malfunctioned, but she was told that Respondent could not accept any additional claims until her oven claim was resolved.

17. Thereafter, Bridges used her own savings to pay another technician to complete the repairs to her oven.

18. On May 12, 2023, Bridges spoke with another of Respondent's representatives, submitted a claim to Respondent for repair of the HVAC, and inquired about reimbursement on her cash payment to repair her oven.

19. Respondent's representative informed Bridges that it could offer "cash in lieu of repair or replacement," but she never received any payment.

20. On May 17, 2023, Bridges sent Respondent an email requesting cancellation of her HSA along with a completed Pro-rated Balance Acceptance Form, which calculated a refund due to her in the amount of Seven Hundred Seventy-eight Dollars and Fourteen Cents (\$778.14).

21. On October 23, 2023, Bridges spoke, again, with Respondent's representative concerning her refund and was told that she needed to provide Respondent with the Pro-Rated Balance Acceptance Form, which she resubmitted along with a copy of her cancellation request.

22. On October 24, 2023, Bridges filed a complaint (No. 118974) with the Oklahoma Insurance Department's ("Department's") Consumer Assistance and Claims Division ("Consumer Assistance") concerning Respondent's failure to refund the pro-rated balance on her HSA and failure to reimburse her for the repair of her oven.

23. On October 27, 2023, the Department's Consumer Assistance wrote Respondent informing it of Bridge's complaint (No. 118974) and demanding a response within twenty (20) days per the Unfair Claims Settlement Practices Act ("UCSPA"), OKLA. STAT. tit. 36 § 1250.4(B).

24. On December 6, 2023, the Department's Consumer Assistance wrote Respondent explaining that it was in violation of HSCA, § 6755(A), and the UCSPA, § 1250.4(C), for failing to respond to Consumer Assistance's October 27, 2023, inquiry.

25. On December 22, 2023, Respondent answered Complaint No. 118974 stating that it received proof of repair and had issued payment, but Respondent failed to address its registration issues or alleged violations of the HSCA or the UCSPA.

26. On January 8, 2022, the Department's Consumer Assistance wrote Respondent explaining that it was in violation of HSCA, § 6755(A), and the UCSPA, § 1250.4(B), for failing to adequately and properly respond to its October 27, 2023 and December 6, 2023, inquiries regarding Bridge's complaint (No. 118974).

John D'Amico – Complaint No. 119406

27. John D'Amico ("D'Amico") is an Oklahoma resident to resides at 105080 Honeysuckle Lane in Midwest City, Oklahoma.

28. D'Amico entered an HSA whereby he agreed to make payments in monthly installments to Respondent, and Respondent promised to pay the cost to repair or replace appliances or fixtures along with the component parts thereof, which purportedly included the dishwasher, subject to certain terms, conditions, and fees.

29. On October 17, 2023, D'Amico's dishwasher malfunctioned, and he submitted a claim to Respondent for the repairs per the HSA.

30. After D'Amico paid the Seventy-five Dollar (\$75.00) service fee, Respondent sent a technician to his residence who inspected the dishwasher and performed some minor repairs before "clearing" the service call.

31. When the dishwasher malfunctioned again on November 14, 2023, Respondent attempted to charge D'Amico another Seventy-five Dollar (\$75.00) service fee even though his HSA provides, in pertinent part, "If the work performed under this contract should fail within 30 days, We will correct the failure without a Service Fee."

32. D'Amico alleges that Respondent accrues the thirty (30) day "corrective failure" time from the date of the initial complaint instead of the date that the contractor performed the repair work because Respondent claims it cannot control when the contractor or technician may "clear" the repair work as being completed.

33. On November 21, 2023, D'Amico filed a complaint (No. 119406) with the Department's Consumer Assistance.

34. On November 22, 2023, the Department's Consumer Assistance wrote Respondent informing it of D'Amico's complaint (No. 119406) and demanded a response within twenty (20) days per the UCSPA, § 1250.4(B).

35. On December 11, 2023, the Department's Consumer Assistance wrote Respondent informing it, again, of D'Amico's complaint (No. 119406) and demanded a response within twenty (20) days per the UCSPA, § 1250.4(B).

36. On January 8, 2024, the Department's Consumer Assistance wrote Respondent explaining that it was in violation of HSCA, § 6755(A), and the UCSPA, § 1250.4(B), for failing to respond to its November 22, 2023 and December 11, 2023, inquiries regarding D'Amico's complaint (No. 119406).

Seni-Giesele Brindou – Complaint No. 119785

37. Seni-Giesele Brindou (“Brindou”) is an Oklahoma resident who resides at 8513 S. Kentucky Ave in Oklahoma City, Oklahoma.

38. Brindou entered an HSA whereby he agreed to make payments in monthly installments to Respondent, and Respondent promised to pay the cost to repair or replace appliances or fixtures along with the component parts thereof, which purportedly included the hot water heater and the HVAC unit, subject to certain terms, conditions, and fees.

39. On November 2, 2023, Brindou’s hot water heater and HVAC unit malfunctioned, and he submitted a claim to Respondent for repairs per the HSA.

40. After Brindou paid a Seventy-five Dollar (\$75.00) service fee, Respondent sent a contractor, Darnell Plumbing, Heating & Air (“Darnell”), to his residence to inspect the hot water heater and HVAC.

41. Darnell informed Brindou that the hot water tank and the ignitor switch in the HVAC unit needed to be replaced.

42. Darnell performed the work, and Brindou paid Darnell Four Hundred and Eighty-two Dollars (\$482.00) for the repairs.

43. Thereafter, Respondent refused to reimburse Brindou for the repair work.

44. When Brindou refused to pay Respondent an additional Seventy-five Dollar (\$75.00) cancellation fee, Respondent threatened to place a lien on his home.

45. On December 18, 2023, Brindou filed a complaint (No. 119785) with the Department’s Consumer Assistance concerning Respondent’s rejection of his warranty claims.

46. On January 2, 2024, the Department's Consumer Assistance wrote Respondent at 2918 Avenue R, Brooklyn, New York informing it of Brindou's complaint (No. 119785) and demanded a response within twenty (20) days per the UCSPA, § 1250.4(B).

47. On January 8, 2024, the Department's Consumer Assistance wrote Respondent at 918 Utica Avenue, Brooklyn, New York informing it of Brindou's complaint (No. 119785) and demanded a response within twenty (20) days per the UCSPA, § 1250.4(B).

48. On February 6, 2024, Respondent, via facsimile, responded to Brindou's complaint (No. 119785) asserting it made three (3) payments for a garage door and plumbing and denying a claim for a furnace was ever submitted, but Respondent failed to address its registration issues or alleged violations of the HSCA or UCSPA.

Concluding Findings of Fact

49. To date and at all relevant times, Respondent never registered with the Department as a home service contract provider as required by the HSCA. 36 O.S. § 6753(B).

50. To date and at all relevant times, Respondent never provided the Department with the security deposit assuring its faithful performance of its obligations to its contract holders as required by the HSCA. 36 O.S. § 6753(C).

51. To date and at all relevant times, Respondent never filed its HSA contracts sold in Oklahoma with the Department as required under the HSCA. 36 O.S. § 6754(A).

52. To date and at all relevant times, although it responded after the expiration of twenty (20) days on a few occasions, Respondent never adequately and properly responded to Consumer Assistance's inquiries about Complaint Nos. 118974, 119406, and 119785 within twenty (20) days, as required by the HSCA and the UCSPA. 36 O.S. §§ 1250.4(B), 6755(A).

VIOLATIONS OF LAW

53. Respondent violated the HSCA, § 6753(B), on at least three (3) occasions by failing to register as a provider of home service contracts before issuing, selling, or offering home service contracts in the state of Oklahoma.

54. Respondent violated the HSCA, § 6753(C), on at least three (3) occasions by failing to maintain the statutorily required reserves, surety bond, securities, letters of credit, net worth, or insurance policies to ensure its faithful performance of its obligation to contract holders in the State of Oklahoma.

55. Respondent violated the HSCA, § 6754(A), on at least three (3) occasions by failing to file copies of its home service contracts marketed, sold, offered for sale, issued, made, proposed to be made, or administered in the State of Oklahoma.

56. Pursuant to the HSCA, § 6755(B)(3), the Commissioner may assess a civil penalty of not more than Five Hundred Dollars (\$500.00) per violation and no more than Ten Thousand Dollars (\$10,000.00) in the aggregate for all violations of a similar nature.

57. Respondent violated the UCSPA, § 1250.4(B), on three (3) occasions by failing to properly and adequately respond to Consumer Assistance's written inquiries concerning complaints (Nos. 118974, 119406, and 119785) within twenty (20) days.

58. Pursuant to the UCSPA, § 1250.4(D), any violation shall subject the provider to discipline including a civil penalty of not less than One Hundred Dollars (\$100.00) nor more than Five Thousand Dollars (\$5,000.00).

ORDER

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED, pursuant to the HSCA, § 6755(B)(1), that Respondent and any of its agents, affiliates, employees, or other

representatives, both current and successor, whether named or unnamed herein, shall **CEASE AND DESIST** from all activities related to issuing, selling, or offering for sale home service contacts in the state of Oklahoma, including without limitation:

- a. Engaging in or transacting the unauthorized business of home service contracts in the State of Oklahoma while unregistered;
- b. Selling, vending, soliciting, or offering for sale home service contracts to Oklahoma consumers;
- c. Advertising, publicizing, or circulating to Oklahoma consumers promotional information related to or concerning home service contracts, in print, video, electronic form, or any other type of media;
- d. Representing, convincing, stating, or claiming to Oklahoma consumers that Respondent is registered as a home service contract provider in the State of Oklahoma;
- e. Failing to fully disclose to, misrepresenting to, or concealing from Oklahoma consumers that Respondent is not authorized and unregistered as home service contract provider within the State of Oklahoma.

IT IS ORDERED, ADJUDGED, AND DECREED, pursuant to the HSCA, § 6755(B)(1)(b), that this Order is effective immediately and shall continue in full force and effect until a hearing is requested at which time this Order will be suspended from its original effective date until completion of a hearing and final decision.

IT IS, FURTHER, ORDERED, ADJUDGED, AND DECREED, pursuant to the HSCA, § 6755(B)(3), that a civil penalty in the amount of **Five Hundred Dollars (\$500.00) per violation** is, hereby, imposed upon Respondent for its **three (3) violations of § 6753(B)** by failing to register as a provider of home service contracts before issuing, selling, or offering home service contracts in the State of Oklahoma amounting to civil penalties totaling **One Thousand Five Hundred Dollars (\$1,500.00)**.

IT IS ORDERED, ADJUDGED, AND DECREED, pursuant to the HSCA, § 6755(B)(3), that a civil penalty in the amount of **Five Hundred Dollars (\$500.00) per violation**

is, hereby, imposed upon Respondent for **its three (3) violations of § 6753(C)** by failing to maintain the statutorily required reserves, surety bond, securities, letters of credit, net worth, or insurance policies to ensure its faithful performance of its obligations to contract holders in the State of Oklahoma amounting to civil penalties totaling **One Thousand Five Hundred Dollars (\$1,500.00)**.

IT IS ORDERED, ADJUDGED, AND DECREED, pursuant to the HSCA, § 6755(B)(3), that a civil penalty in the amount of **Five Hundred Dollars (\$500.00) per violation** is, hereby, imposed upon Respondent for its **three (3) violations of § 6754(A)** by failing to file copies of its home service contracts marketed, sold, offered for sale, issued, made, proposed to be made, or administered in the State of Oklahoma amounting to civil penalties totaling **One Thousand Five Hundred Dollars (\$1,500.00)**.

IT IS ORDERED, ADJUDGED, AND DECREED, pursuant to the HSCA, § 6755(A), and the UCSPA, § 1250.4(D), that a civil penalty in the amount of **One Thousand Six Hundred Sixty-five Dollars (\$1,665.00) per violation** is, hereby, imposed upon Respondent for its **three (3) violations** of the UCSPA, § 1250.4(B), by failing to properly and adequately respond to Consumer Assistance's written inquiries regarding consumer complaints (Nos. 118974, 119785, and 119785) within twenty (20) days amounting to civil penalties totaling **Four Thousand Nine Hundred Ninety-five Dollars (\$4,995.00)**.

IT IS, FURTHER, ORDERED, ADJUDGED, AND DECREED, that the sum of all civil penalties imposed herein totals **Nine Thousand Four Hundred Ninety-five Dollars (\$9,495.00)**, and, therefore, the civil penalties imposed for violations of the UCSPA do not exceed Five Thousand Dollars (\$5,000.00) per § 1250.4(D), and the aggregate amount of civil penalties

imposed for violations of the HSCA, which are of a similar nature, do not exceed Ten Thousand Dollars (\$10,000.00) per § 6755(B)(3).

IT IS, THEREFORE, ORDERED, ADJUDGED, AND DECREED that should Respondent fail to request a hearing within twenty (20) days from the date of this Order, it shall become a **FINAL ADMINISTRATIVE ORDER**.

WITNESS My Hand and Official Seal this *26th* day of March 2024.



**GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAHOMA**



**BRIAN DOWNS,
FIRST DEPUTY INSURANCE COMMISSIONER AND
CHIEF OF STAFF**

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing was mailed via certified mail return receipt, with postage prepaid, on April 4, 2024, to:

Via certified mail return receipt:

A copy was delivered to:

FIRST PREMIER HOME WARRANTY, CORP.
918 Utica Avenue
Brooklyn, NY 11203

Consumer Assistance and Claims Division

Certified Mail No.:
9589 0710 5270 0154 8793 20

-and-

FIRST PREMIER HOME WARRANTY, CORP.
2918 Avenue R
Brooklyn, NY 11229

Certified Mail No.:
9589 0710 5270 0154 8793 37

Respondent.



SETH D. COLDIRON
ASSISTANT GENERAL COUNSEL
Oklahoma Insurance Department
400 NE 50th Street
Oklahoma City, OK 73105
Telephone: (405) 521-2746
Facsimile: (405) 522-0125

Email: seth.coldiron@oid.ok.gov

*Attorney for Petitioner,
The State of Okla., ex rel., Glen Mulready,
Ins. Comm'r*