

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

STATE OF OKLAHOMA, ex rel.
KIM HOLLAND, Insurance Commissioner,

Petitioner,

v.

JOHN BRENDAN HEATHERLY,

Respondent.

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Case No. 10-1275-DIS

FILED

OCT 14 2010

INSURANCE COMMISSIONER
OKLAHOMA

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

COMES NOW the State of Oklahoma, ex rel. Kim Holland, Insurance Commissioner, by and through her attorney, Julie Meaders, and alleges and states as follows:

JURISDICTION AND AUTHORITY

1. Kim Holland is the Insurance Commissioner of the State of Oklahoma and as such 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 Adjuster Licensing Act, 36 O.S. §§ 6201 et seq.

2. John Brendan Heatherly is an adjuster with Hallmark Insurance Company. Heatherly voluntarily surrendered his Oklahoma adjuster license 134438 on April 30, 2007.

3. The Insurance Commissioner may censure, suspend, revoke or refuse to issue or renew an adjuster's license and or may levy a fine up to \$1,000.00 for each violation of the Oklahoma Insurance Code. 36 O.S. § 6219 and § 6220(A) and (B).

ALLEGATIONS OF FACT

1. The Oklahoma Insurance Department ("Department") received a complaint on August 31, 2010 from Tammy Wesley. Ms. Wesley alleged that she was in an automobile accident

on August 19, 2010. Wesley reported the accident to her insurance agent, Candi Cross. Cross informed Wesley that Wesley's auto insurance with Hallmark Insurance Company had lapsed. Wesley informed Cross that she had paid her premium on July 27, 2010 and had retained the receipt of payment.

2. Wesley made numerous telephone calls to Cross and the insurer Hallmark Insurance Company from August 19, 2010 until August 30, 2010 regarding her insurance claim. Adjuster Brendan Heatherly responded on August 26, 2010 that he would call the insurance agent and get back with Wesley. Wesley left messages on August 30 and 31 for Heatherly to return her phone calls without any response.

3. Wesley thereafter complained to the Oklahoma Insurance Department (the "Department"). April Morris, a claims analyst in the Consumer Assistance Division of the Department received Wesley's complaint. A routine review of the Department's records determined Heatherly voluntarily surrendered his Oklahoma adjuster license in April 2007 and has not been licensed as an adjuster in Oklahoma since that time.

4. Morris spoke with Heatherly by telephone regarding the Wesley complaint. Heatherly stated that he was the claims adjuster assigned to the Wesley claim and that he had forwarded the Wesley complaint to his supervisor. Ms. Morris informed him that he was not licensed to adjust claims in Oklahoma.

5. Brian Owens, with Hallmark Insurance, provided documentation to the Department that Heatherly had adjusted nine closed claims and was working three open claims in Oklahoma while unlicensed.

ALLEGED VIOLATIONS OF LAW

Respondent violated 36 O.S. § 6220(A)(9) by adjusting losses or negotiating claim settlement arising pursuant to insurance contracts on behalf of an insurer without proper licensing.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner, subject to the following paragraph, that the Respondent violated 36 O.S. § 6220(A)(9) and therefore **Respondent is FINED in the amount of ONE HUNDRED AND TWENTY DOLLARS (\$120.00) payable within thirty (30) days of the date of mailing.**

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner that this Order is a Conditional Order. Unless the Respondent requests a hearing with respect to the Allegations of Fact set forth above within thirty (30) days of the date of mailing 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 mailing of this Order. Such request for hearing, if desired, shall be made in writing, addressed to Julie Meaders Oklahoma Insurance Department, Legal Division, Post Office Box 53408, Oklahoma City, Oklahoma 73152-3408 and must be served on the Oklahoma Insurance Department within the thirty (30) days allotted. The proceedings on any such requested 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.

WITNESS My Hand and Official Seal this 14th day of October, 2010.



KIM HOLLAND
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

Julie Meaders
JULIE MEADERS
Assistant General Counsel
P.O. Box 53408
Oklahoma City, Oklahoma 73152-3408
(405) 521-2746

CERTIFICATE OF MAILING

I, Julie Meaders, 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 via certified mail with postage prepaid and return receipt requested on this 14th day of October, 2010, to:

John B. Heatherly


CERTIFIED MAIL NO. 7001 0320 0004 0178 4492

and that a copy was delivered to:

Leah Scoles
Producer Licensing Division

Russell Valleroy
Consumer Assistance/Claims Division



Julie Meaders