

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

FILED

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

Petitioner,

v.

**CHARLES T. PENWRIGHT, a licensed
Oklahoma Insurance Producer,**

Respondent.

OCT 23 2010

INSURANCE COMMISSIONER
OKLAHOMA

Case No. 10-1328-DIS

**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

1. Kim Holland 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.

2. Charles T. Penwright is licensed by the State of Oklahoma as a resident insurance producer holding license number 119675. His address of record is [REDACTED]

3. 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 and/or may levy a fine up to \$1,000.00 for each occurrence of a violation of the Oklahoma Insurance Code, 36 O.S. § 1435.13(A) and (D).

ALLEGATIONS OF FACT

1. Respondent is the owner of the Charles Penwright Insurance Agency, Inc. located at 331 W. Main, Yukon, Oklahoma 73099. Felix Herrera began working at the Penwright agency as an insurance producer in February 2009. Cristy Ann Gregg began working at the Penwright agency as a customer service representative (CSR) in May or June of 2009.

2. The Oklahoma Insurance Department (the "Department") received a complaint that Herrera and Gregg were both unlicensed by the Department but were performing insurance duties at the Penwright agency, including selling, soliciting and negotiating insurance, taking applications, giving quotes, answering insurance questions and other insurance matters that require a license.

3. Department records were reviewed by Department investigators which revealed that Gregg was previously licensed as a customer service representative (CSR) holding license 123153 but failed to renew the license on June 30, 2009.

4. Department records also revealed that Herrera was previously licensed as an insurance producer holding license 91992 but his license was revoked by the Department on August 20, 2009 for violation of 36 O.S. § 1435.13(A)(4); improperly withholding, misappropriating or converting any monies or properties received in the course of doing an insurance business and 36 O.S. § 1435.13(A)(8); using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business.

5. Further, the Department referred Herrera to the Oklahoma Attorney General's office for criminal prosecution for embezzlement due to the misappropriation of

premium. Herrera negotiated a plea of guilty in August 2010 and received a one year deferred sentence.

6. On September 15, 2010, Investigator Fisher telephoned the Penwright Agency and asked Gregg for a quote for automobile insurance on a 2005 Ford Mustang GT. Gregg obtained the pertinent information to provide a quote such as the name of the driver, date of birth and Oklahoma driver's license number. Gregg also asked Fisher what coverages and the amount of the deductible he wanted. Gregg then advised she would call Fisher back with the quote. Gregg called Fisher fifteen minutes later with a verbal quote of \$1,447.80.

7. On September 16, 2010, Investigator Landwert telephoned the Penwright Agency and asked for Felix Herrera. Landwert asked him for a quote for automobile insurance on a 2005 Toyota Prius. Herrera obtained the pertinent information to provide a quote such as the name of the driver, date of birth and Oklahoma driver's license number. Herrera also asked Landwert what coverages and the amount of the deductible she wanted. Herrera then advised he would call Landwert back with the quote.

8. Herrera later called Landwert and stated the quote for a six month policy would be \$101.00 down, with \$461.00 remaining. The \$461.00 would be paid over a five month period if Landwert agreed to allow the funds to be directly drawn from her checking account. Herrera told her to think it over and then come see him.

9. On September 17, 2010, Investigators Miller and Landwert interviewed Gregg at the Charles Penwright Insurance Agency. Gregg claimed she was a licensed CSR but had not attended any continuing education classes since employed at the Penwright Agency. Investigator Miller asked for both the quote Gregg had given Fisher on

September 15, 2010 and the quote Herrera had given Landwert on September 16, 2010. Gregg printed the quotes and gave them to Miller. Gregg stated she gave one or two quotes every day while working at the Penwright Agency.

10. On September 17, 2010, Investigators Miller and Landwert interviewed Herrera at the Charles Penwright Insurance Agency. Herrera did not dispute his license revocation and the pursuing criminal charge of embezzlement in which he negotiated a plea of guilty in August 2010. Herrera stated that he usually sold between two and four policies per week. Charles Penwright signed all the policies and paid Herrera a percentage of the commission received from the sale.

11. On September 17, 2010, Investigators Miller and Landwert interviewed Charles Penwright at the Charles Penwright Insurance Agency. Penwright admitted he did not ask to see Gregg or Herrera's licenses nor did he check with the Department when he hired them.

12. Penwright stated that Gregg was employed as a CSR and her job duties included answering the telephone, answering customers' insurance questions and providing quotes. Penwright further stated that Herrera was acting as an insurance producer but Penwright signed all the policies as owner of the agency. Penwright paid Herrera on a percentage basis, 80% of monthly sales. Penwright paid Herrera \$3,800.00 for the month of August 2010.

CONCLUSIONS OF LAW

Respondent violated 36 O.S. § 1435.14(A) by paying a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state when that person is required to be licensed under this act and is not

so licensed. In violation of 36 O.S. § 1435.14(A), Respondent has violated 1435.13(A)(2). Respondent violated 36 O.S. § 1435.13(A)(8) by demonstrating incompetence in his failure to ascertain whether persons working at his agency were licensed

ORDER

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner, subject to the following paragraph, that the Respondent violated 36 O.S. § 1435.13(A)(2) and (8) and as a result **Respondent is FINED** in the amount of **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00). Fine to be paid within thirty (30) days of receipt of this Order.**

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 this Order. A request for hearing should be in writing addressed to Julie Meaders, Oklahoma Insurance Department, Legal Division, Post Office Box 53408, Oklahoma City, Oklahoma 73152-3408. 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 the Insurance Code and 75 O.S. § 250-323. If the 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 25th day of October 2010.



KIM HOLLAND
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

Julie Meaders

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P.O. Box 53408
Oklahoma City, Oklahoma 73152
Telephone: (405) 521-2746
Facsimile: (405) 522-0125

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 by certified mail with postage prepaid and return receipt requested on this 26th day of October 2010, to:

Charles Penwright
[REDACTED]

CERTIFIED MAIL NO. 7001 0320 0004 0178 4409

and that notification was sent to:

NAIC/RIRS and All Appointing Insurers

and that a copy was delivered to:

Leah Scoles
Producer Licensing Division

and

Rick Wagon
Anti-Fraud Unit/Investigations Division

Julie Meaders

Julie Meaders