

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

FILED

JAN 07 2015

**INSURANCE COMMISSIONER
OKLAHOMA**

**STATE OF OKLAHOMA, ex rel. JOHN D.
DOAK, Insurance Commissioner,**

Petitioner,

v.

Case No. 14-0742-DIS

**RICH LEE HANKS, a licensed public
insurance adjuster,**

Respondent.

FINAL ADMINISTRATIVE ORDER

This matter is a disciplinary proceeding under the Oklahoma Insurance Adjusters Licensing Act. 36 O.S. §§ 6201 et seq. The Oklahoma Insurance Department (“OID”) issued an Administrative Order of Revocation Instante (Case No. 14-0742-DIS) on September 19, 2014 alleging that Rich Lee Hanks (“Respondent”) violated several statutory provisions of the Oklahoma Insurance Adjusters Licensing Act.

Respondent requested an administrative hearing and the hearing was held before the undersigned Hearing Examiner on December 16, 2014. Petitioner appeared by counsel Barron B. Brown. Respondent appeared by himself without counsel. Witnesses were sworn and testified, exhibits were presented and arguments heard.

JURISDICTION

1. John D. Doak 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. Respondent is licensed by the State of Oklahoma as a resident public insurance adjuster holding license number 0100166709. His address of record with the Oklahoma Insurance Department (“OID”) is 2203 S. Avery Ave., Midwest City, Oklahoma 73160.

3. The Insurance Commissioner may place on probation, censure, suspend, revoke or refuse to issue or renew an initial license issued pursuant to the Oklahoma Insurance Adjusters 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. § 6219, § 6220(A) and (B).

4. If the Insurance Commissioner finds that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to the effect in its order, such action may be ordered pending the outcome of proceedings instituted by the OID. 75 O.S. §§ 314(C)(2), 314.1, OAC 365:1-7-9(a).

FINDINGS OF FACT

1. On or about February 20, 2014, Peggy Williams (“Williams”) was approached by U.S. House Claim Services (“Services”), a company owned by Respondent. Services offered to repair the roof of Williams’s personal dwelling. Williams signed a letter of representation with Services. The letter of representation states that Services is a “public adjusting company” and that it was representing Williams in the “adjustment and negotiation of [her] insurance claim for the loss or [damages]” to her roof. Respondent also owns a roofing company, U.S. House Craft Roofing (“Roofing”). In addition to the letter of representation, Williams also signed a contract with Roofing to repair the damage to her roof. 36 O.S. § 6220.1(A) provides that “[no] adjuster may, directly or indirectly, own or have a pecuniary interest in any business entity which provides construction or reconstruction related services on behalf of an insurance claimant or insured for which the adjuster is providing services, nor may the adjuster, directly or indirectly,

own or have a pecuniary interest in any other business entity which furnishes any supplies, material, services, or equipment purchased by or on behalf of the claimant or insured in settlement of the claim, other than usual and customary supplies, materials, services, or equipment utilized in the adjusting process.” 36 O.S. § 6220.1(C) provides that § 6220.1(A) does not apply “to an adjuster providing services on a claim which is located in the county in which the adjuster maintains their principal place of business, or in a municipality having a population of less than six thousand (6,000) persons; provided, however, the adjuster shall give written disclosure of the potential conflict of interest to both the insured and insurer prior to the performance of any adjuster services.” Roofing provided “construction or reconstruction related services” on behalf of Williams, an insured, that Respondent was, simultaneously, providing adjuster services for. Williams did reside in the county of Respondent’s principal place of business, but Respondent failed to disclose the potential conflict of interest to Williams and her insurer prior to performing adjuster services as required by § 6220.1(C).

2. Additionally, under the Oklahoma Insurance Adjusters Licensing Act (36 O.S. §§ 6201 et seq.), individuals wanting to act as a public adjuster in Oklahoma must be properly licensed as such by the OID pursuant to the requirements contained within 36 O.S. § 6206. Within that, all public adjuster license applicants must file a bond with the OID as required by 36 O.S. § 6214 and meet the compensation agreement requirements in 36 O.S. § 6216.2. Additionally, “[a] firm, association, company, or corporation” that is performing the functions of an adjuster or public adjuster must be licensed as an adjuster as per 36 O.S. § 6207. A public adjuster is defined as “any person, firm, association, company or corporation that suggests or presents to members of the public that said public adjuster represents the interests of an insured or third party for a fee or compensation . . . [public] adjusters may investigate claims and

negotiate losses to property only.” 36 O.S. § 6202(4). At the time that Respondent’s company entered into its representation of Williams, Respondent was only licensed as an insurance adjuster in the State of Oklahoma. Respondent was not properly licensed as an Oklahoma public insurance adjuster during the time in which his company represented Williams. According to OID licensing records, Respondent did not become an Oklahoma-licensed public insurance adjuster until July 1, 2014. Services and Roofing have never been licensed as public adjuster business entities with the OID.

3. The letter of representation provided by Respondent to Williams does not conform to the requirements for licensed public adjuster agreements contained in 36 O.S. § 6216.2 as referenced above. Specifically, § 6216.2(C) provides that “[every] contract for services to be rendered by a public adjuster shall contain the following statement. It shall be in boldface ten-point or larger type and located conspicuously on the front face of the contract. “THIS CONTRACT MAY BE CANCELLED WITHIN THREE (3) DAYS AFTER THE OWNER OF THE DAMAGED PROPERTY HAS SIGNED THIS AGREEMENT.” The language required by § 6216.2(C) is not conspicuously located in boldface type on the front of Respondent’s letter of representation provided to Williams.

4. On or about April 22, 2014, Delmer Stokes (“Stokes”), an insured homeowner, filed a complaint against Services with the OID. Stokes stated that he signed two documents: a contract for repairs to be performed by Roofing on his personal dwelling and a letter of representation providing that Services would act as Stokes’ public adjuster. Stokes was not told what the letter of representation was and, based on Services’ misrepresentation, believed it was just part of the repair contract. Stokes stated that he was given the letter of representation by Pat Hope (“Hope”), an employee of Respondent’s, who claimed that Services could act as a public

adjuster for Stokes. The letter of representation does not contain the language required by § 6216.2(C). After learning of the misrepresentation, Stokes terminated his contractual relationship with both of Respondent's companies. Hope is not, nor has he ever been, licensed as a public adjuster in Oklahoma. Stokes resided in the county in which Respondent maintained his principal place of business, but Respondent failed to disclose the potential conflict of interest to Stokes and his insurer prior to performing adjuster services as required by § 6220.1(C).

5. On or about April 28, 2014, Rostina Swindall ("Swindall"), an insured homeowner, filed a complaint against Roofing with the OID. Swindall stated that representatives from Roofing came to her home and stated that Roofing could repair damage to her personal dwelling. Swindall husband's signed two documents with Respondent's companies: a contract for repairs with Roofing and a letter of representation providing that Services would act as the Swindall's public adjuster. Swindall was never told what the documents actually were. At this same time, Swindall was given a business card by Hope. Swindall resided in the county in which Respondent maintained his principal place of business, but Respondent failed to disclose the potential conflict of interest to Swindall and her insurer prior to performing adjuster services as required by § 6220.1(C).

6. On or about June 23, 2014, Tara Hargrove ("Hargrove"), an insured homeowner, filed a complaint against Respondent with the OID. Respondent came to Hargrove's home and told her that he was a public adjuster and a contractor. Hope accompanied Respondent and stated that he was a public adjuster as well. Respondent told Hargrove that she didn't have to pay for an adjuster if she used his company to repair her home. Respondent gave Hargrove two documents to sign but didn't explain to her what the documents were. Additionally, Respondent told Hargrove that he would take care of everything and that she didn't need to contact her

insurance company or the company's adjuster, Kevin Broderick ("Broderick"). Hargrove resided in the county in which Respondent maintained his principal place of business, but Respondent failed to disclose the potential conflict of interest to Hargrove and her insurer prior to performing adjuster services as required by § 6220.1(C).

7. The hearing was held on December 16, 2014.

8. The Insurance Commissioner appointed John D. Miller to hear the case as the Independent Hearing Examiner.

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

10. The following exhibits were introduced and admitted:

Petitioner's Exhibit 1: A copy of Respondent's National Association of Insurance Commissioners ("NAIC") State-Based Systems ("SBS") licensee summary.

Petitioner's Exhibit 2: A copy of Respondent's application for a public insurance adjuster with the OID.

Petitioner's Exhibit 3: A copy of a letter from State Farm stating that Respondent had a \$10,000 surety bond in place as of June 27, 2014.

Petitioner's Exhibit 4: A copy of a letter of representation and roofing contract entered into by Respondent and Stokes. Additionally, a copy of a business card given out by Hope, in which U.S. House Craft is listed as the named company on the business card.

Petitioner's Exhibit 5: A copy of Swindall's complaint against Respondent's company, which was submitted to the OID.

Petitioner's Exhibit 6: A copy of a letter of representation and roofing contract entered into by Respondent and Hargrove.

Respondent's Exhibit 1: A copy of documentation concerning a claim filed by Swindall with State Farm, in which Respondent's company was representing Swindall.

Respondent's Exhibit 2: A copy of a fax cover sheet that was allegedly sent from Respondent to the OID, which provided a new e-mail address for Respondent's company and updated other licensee information.

11. The Hearing Examiner heard testimony, reviewed exhibits and entered the following findings of fact:

a. Evidence was admitted and testimony was presented that Respondent acted and held himself out as a public adjuster without being licensed as a public adjuster in the State of Oklahoma.

b. Evidence was admitted and testimony was presented that various business entities, of which Respondent was associated with, were not properly licensed as adjuster business entities in the State of Oklahoma.

c. Evidence was admitted and testimony was presented that the contracts and letters of representation involved in this matter were not in conformity with the requirements imposed by the Oklahoma Insurance Adjusters Licensing Act. Respondent admitted that he was ultimately responsible for ensuring that the language of these contracts and letters of representation was in compliance with the relevant law.

d. Evidence was admitted and testimony was presented that Respondent did not properly supervise or train Hope, with whom Respondent had a business arrangement. Hope acted as a representative for Services, held himself out as an insurance adjuster and was not licensed as an insurance adjuster in the State of Oklahoma.

CONCLUSIONS OF LAW

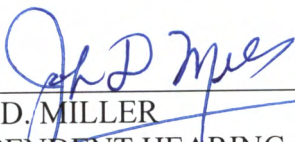
1. Respondent violated 36 O.S. § 6220(A)(4); material misrepresentation of the terms and effect of any insurance contract, with intent to deceive, or engaging in, or attempting to engage in, any fraudulent transaction with respect to a claim or loss that the licensee or the trainee is adjusting and, in the case of a public adjuster, misrepresentation of the services offered or the fees or commission to be charged.
2. Respondent violated 36 O.S. § 6220(A)(6); because, in the conduct of business affairs, the licensee or trainee has shown himself to be, and is so deemed by the Commissioner, incompetent, untrustworthy or a source of injury to the public.
3. Respondent violated 36 O.S. § 6220(A)(8); violation of any provision of the Insurance Adjusters Licensing Act.

ORDER

IT IS THEREFORE ORDERED THAT RESPONDENT'S RESIDENT PUBLIC INSURANCE ADJUSTER LICENSE IS HEREBY REVOKED, THE FIVE THOUSAND DOLLAR FINE (\$5,000.00) INITIALLY LEVIED IN ADMINISTRATIVE ORDER OF REVOCATION INSTANTER CASE NO. 14-0742-DIS IS IMPOSED AND RESPONDENT IS FURTHER ORDERED TO PAY THE COSTS OF THIS PROCEEDING IN THE AMOUNT OF TWO HUNDRED AND SEVENTY-FIVE DOLLARS (\$275.00).

Done this 30th day of December, 2014.





JOHN D. MILLER
INDEPENDENT HEARING EXAMINER
OKLAHOMA INSURANCE DEPARTMENT

CERTIFICATE OF MAILING

I, Barron B. Brown, hereby certify that a true and correct copy of the above and foregoing Final Administrative Order was mailed via certified mail with postage prepaid and return receipt requested on this 7th day of January, 2015, to:

Rich Lee Hanks
2203 S. Avery Ave.
Midwest City, OK 73160


CERTIFIED MAIL NO: 7014 2870 0000 5493 1357

and that notification was sent to:

NAIC/RIRS
and to all appointing insurers

and that a copy was delivered to:

Licensing Division
Anti-Fraud Unit/Investigations Division



Barron B. Brown
Assistant General Counsel