FILED

BEFORE THE INSURANCE COMMISSIONER OF THE APR 26 2019
STATE OF OKLAHOMA

INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. GLEN MULREADY, Insurance Commissioner,	)	
Petitioner,	)	
vs.	)	Case No. 18-0811-DIS
ZACHARY S. SWORDS, a licensed insurance producer in the State of Oklahoma,	)	
Respondent.	)	

CONSENT ORDER

The State of Oklahoma, *ex rel.* Glen Mulready, Insurance Commissioner, and Respondent Zachary S. Swords stipulate to the following facts and applicable laws. The parties consent to the entry of this *Consent Order*.

JURISDICTION AND AUTHORITY

1. Glen Mulready 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 Oklahoma Producer Licensing Act, 36 O.S. §§ 1435.1 through 1435.41.

2. Zachary S. Swords ("Respondent") is an Oklahoma licensed resident insurance producer holding license number 112843. Respondent's current mailing 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).

4. Informal disposition of this matter may be made by consent order. 75 O.S. § 309(E).

STIPULATION OF FACTS

5. All preceding paragraphs are adopted and incorporated by reference herein, and the parties agree to and stipulate to the following findings of fact.

6. On November 27, 2017, the Department's Anti-Fraud Unit received a referral from Farmers Insurance Special Investigation Unit ("SIU") as to the above-named Respondent. The referral was authored by SIU investigator, Luke Loving ("Investigator Loving"). The basis of the referral was a violation of Oklahoma Statute Title 36, Section 1435.13(A)(8)('[u]sing fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.')."

7. At all relevant times herein, Respondent was and is a resident licensed insurance producer in the State of Oklahoma, and at the time of the referral, selling, transacting, and/or negotiating insurance business in Ponca City, Oklahoma for Bristol West Insurance Company, a subsidiary of Farmers Insurance Company, Inc. ("Farmers Insurance").

8. Investigator Loving submitted a copy of his investigation's closing report and supporting documentation to the Department. The report and documentation provided:

a. Farmers Insurance identified potential concerns related to a claim submitted on a policy held by Tillie Walton on October 23, 2017 ("subject claim"). The subject claim was submitted by the policyholder's son, Brayden Walton ("Claimant") regarding vandalism to a 2014 Dodge Ram 3500 with VIN# 3C63RRNL4EG216275 ("subject property"). The subject claim provided an incorrect, misleading, and/or false date of loss, May 13, 2017.

b. Due to an approximately five-month delay in reporting the subject claim, a policy lapse period from June 17, 2017 to July 3, 2017, and the lack of a police report, Farmers Insurance referred the claim to SIU for investigation.

c. On October 23, 2017, SIU Investigator Loving discovered photos of the subject property on the Claimant's Facebook page, a public social media website. No vandalism damage appeared present on photos with a publication date of June 2, 2017. However, photos that clearly showed vandalism to the vehicle had a publication date of June 27, 2017.

d. Investigator Loving conducted an interview with Claimant on November 21, 2017. When asked about the June 27, 2017 Facebook photos, Claimant informed Investigator Loving that the correct date of loss was June 27, 2017 when the coverage was lapsed. When asked about why he used May 13, 2017 as the date of loss, Claimant provided Facebook messages from Respondent directing Claimant to use May 13, 2017 as the date of loss.

e. On November 27, 2017, the Department received the referral from Farmers Insurance, Inc.

9. Mark Drummond ("Investigator Drummond") is an investigator with the Department's Anti-Fraud Division and was the assigned Department agent investigating Farmers Insurance's allegations against the Respondent.

10. On January 22, 2018, Investigator Drummond interviewed Respondent. During the course of that interview, Respondent admitted to Investigator Drummond that he sent the Facebook messages to Claimant regarding the subject claim, and those messages directed the Claimant as follows:

> Use 5/13/17 as the date of the loss...there was no claim earlier as we had discussed since there was a lapse in coverage during that time. Tell them no police report was taken and use the date i said above 5/13/2017.

At Respondent's direction, Claimant submitted the claim with the incorrect, misleading, and/or false date of loss on October 23, 2017.

11. Investigator Drummond also reviewed an incident report with the Tonkawa Police Department reporting vandalism to the subject property and dated June 27, 2017.

12. After reviewing the Facebook photos, the *Notice of Rescission* (sic) *for Non-Payment of Premium* regarding the policy lapse on June 17, 2017, the Tonkawa Police Department incident report, and interviewing the Respondent, Investigator Drummond referred the matter to the Department's Legal Division for administrative action.

13. At all relevant times herein, Respondent had knowledge or had reason to know that the insurance on the subject property had lapsed on June 17, 2017 and directed the Claimant to provide an incorrect, misleading, and/or false date of loss to the insurer and not to disclose the Tonkawa Police Department incident report to the insurer.

<u>AGREED CONCLUSIONS OF LAW</u>

14. The preceding paragraphs are adopted and incorporated by reference herein, and the parties agree to and stipulate the following conclusions of law.

15. By directing Claimant to provide an incorrect, misleading, and/or false date of loss and to not disclose the incident report by the Tonkawa Police Department, Respondent has engaged in fraudulent, coercive, and/or dishonest practices, and/or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in the State of Oklahoma. *36 Okla. Stat. Ann. 1435.13(A)(8).*

ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Insurance Commissioner and agreed to by Respondent that Respondent's Oklahoma insurance producer license is hereby **REVOKED**.

WITNESS My Hand and Official Seal this 25th day of April, 2019.

GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

Charles F. Alden, III
Independent Hearing Examiner
Oklahoma Insurance Department

Approved:

Zachary S. Swords

Zachary S. Swords, Respondent *Pro Se*

Brian C. Chandler
Assistant General Counsel
Oklahoma Insurance Department
Attorney for Petitioner

VERIFICATION AND CONSENT

I, Zachary S. Swords, state that I have read this *Consent Order*. The contents and facts set forth in the order are true to the best of my knowledge. I consent to the entry of the Order by the Insurance Commissioner and I waive my right to appeal this Order.

ZACHARY S. SWORDS

STATE OF OKLAHOMA
COUNTY OF Kay

This instrument was acknowledged before me on April 18, 2019 by ZACHARY S. SWORDS.

RETA SWORDS
NOTARY PUBLIC
IN AND FOR
STATE OF OKLAHOMA
KAY COUNTY

Seal

Signature of Notarial Officer

Notary
Title

My commission expires:

9-13-2021
Comm #: 01012881

CERTIFICATE OF MAILING

I, Brian C. Chandler, hereby certify that a true and correct copy of the above and foregoing *Consent Order* was mailed by certified mail, with postage prepaid and return receipt requested on this 26 day of April, 2019, to the following:

Zachary S. Swords
[redacted]

CERTIFIED MAIL NO.

and that notification was sent to:

NAIC/RIRS

and to all appointing insurers

and a copy was delivered to:

Licensing Division
Anti-Fraud Unit

Brian C. Chandler
Brian C. Chandler
Assistant General Counsel