

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

STATE OF OKLAHOMA, *ex rel.* GLEN
MULREADY, Insurance Commissioner,

Petitioner,

vs.

KYLE DAVID CARTER, an original applicant for
a resident insurance producer license,

Respondent.

Case No. 18-0906-DEN

FILED

MAY 09 2019

[INSURANCE COMMISSIONER
OKLAHOMA

FINAL ADMINISTRATIVE ORDER

This matter is an administrative proceeding pursuant to the Oklahoma Insurance Code, 36 Okla. Stat. Ann. §§ 101, *et seq.*, including the Oklahoma Producer Licensing Act, 36 Okla. Stat. Ann. §§ 1435.1-1435.41, and the Administrative Procedures Act, 75 Okla. Stat. Ann. §§ 250, *et seq.* Glen Mulready is the Insurance Commissioner ("Commissioner") and is the chief executive officer of the Oklahoma Insurance Department ("Department"). Respondent Kyle David Carter ("Respondent") is an original applicant for a resident insurance producer license from the State of Oklahoma. On October 23, 2018, Respondent submitted an application to the Department for an Oklahoma resident insurance producer license. Upon Respondent's request for hearing on said application, the Department issued a *Notice of Hearing and Order to Show Cause* ("Notice") on April 9, 2019, alleging certain grounds for denial of said application and setting the matter for hearing before the undersigned Hearing Examiner for 1:30 p.m. on Tuesday, April 30, 2019 at the offices of the Oklahoma Insurance Department, 3625 N.W. 56th Street, Suite 100, Oklahoma City, Oklahoma 73112.

On April 30, 2019, the undersigned Hearing Examiner presided over the administrative hearing, and testimony and evidence was received into the administrative record. The hearing was electronically recorded by employees of the Oklahoma Insurance Department. The Commissioner was represented by Assistant General Counsel, Brian C. Chandler, and Respondent, Kyle David Carter, appeared *pro se*. After consideration of the testimony and evidence presented, the undersigned Hearing Examiner issued his order of findings and conclusions of law.

FINDINGS OF FACT

1. Incorporating and re-adopting the preceding paragraphs, the Hearing Examiner finds that the Commissioner has also established by preponderance of the evidence the following Findings of Fact.

2. Respondent, Kyle David Carter, was sworn and testified under oath, as to his answers on his Oklahoma resident insurance producer license application, his previous administrative history, the district court action filed by the OESC relating to an alleged outstanding tax warrant, and the small claims lawsuit against Respondent filed by Gilbert L. Gonzalez in Canadian County District Court, State of Oklahoma in case numbered SC-2018-2024. All the same was examined by counsel for the Commissioner and admitted into evidence by the Hearing Examiner.

3. Courtney Khodabakhsh, Supervisor of the Department's Licensing Division, was sworn and testified under oath, *inter alia*, as to the record, including the Commissioner's allegations contained within the pleadings filed herein and exhibits introduced by the Commissioner in support thereof, including the Respondent's application, the process for

reviewing said application, and the reason for the referral to the Department's Legal Division. All the same was examined by counsel for the Commissioner and admitted into evidence by the Hearing Examiner.

4. Sherry Standerfer, Legal Assistant to the Department's Legal Division, was sworn and testified under oath, *inter alia*, as to the record, including the Commissioner's allegations contained within the pleadings filed herein and exhibits introduced by the Commissioner in support thereof, and as part of her normal job duties, the administrative history record she prepared relating to the Respondent. Furthermore, Sherry Standerfer testified that the Respondent had an administrative history prior to submitting his application on October 23, 2018. All the same was examined by counsel for the Commissioner and admitted into evidence by the Hearing Examiner.

5. Lewis Garrison, Director of the Department's Bail Bond Division, was sworn and testified under oath, *inter alia*, as to the record, including the Commissioner's allegations contained within the pleadings filed herein and exhibits introduced by the Commissioner in support thereof and testified as to Respondent's history of administrative actions during Respondent's time as licensed bail bondsman. All the same was examined by counsel for the Commissioner and admitted into evidence by the Hearing Examiner.

6. On or about October 23, 2018, Respondent submitted an application for an Oklahoma resident insurance producer license to the Oklahoma Insurance Department.

7. Respondent answered "No" to the following questions on the application:

[Question No. 2]: Have you ever been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration? "Involved" means having a license censured, suspended,

revoked, canceled, terminated; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation, sanctioned or surrendering a license to resolve an administrative action. "Involved" also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license, or registration. "Involved" also means having a license, or registration application denied or the act of withdrawing an application to avoid a denial. INCLUDE any business so named because of your actions in your capacity as an owner, partner, officer or director, or member or manager of a Limited Liability Company. You may EXCLUDE terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee. If you answer yes, you must attach to this application: a) a written statement identifying the type of license and explaining the circumstances of each incident, b) a copy of the Notice of Hearing or other document that states the charges and allegations, and c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

[Question No. 4] Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement? If you answer yes, identify the jurisdiction(s).

8. Respondent failed to disclose that he was a party to previous administrative actions on his insurance producer application related to his previous licensure as an Oklahoma bail bondsman prior to surrendering his Oklahoma bail bondsman license on or about October 11, 2018.

9. Prior to submitting his insurance producer application on October 23, 2018, Respondent was personally served by Levi Aroch, private process server, on the 16th day of August, 2018, with an *Order to Appear and Answer as to Assets, Petition, and Unemployment Compensation Tax Warrant* in the case styled as follows:

State of Oklahoma *ex rel.* Oklahoma Employment Security Commission v. Kyle Carter d/b/a C & K Bail Bonds, Case No. CJ-2018-3540, District Court of Oklahoma County, State of Oklahoma.

10. Respondent failed to disclose on his resident insurance producer license application the above-referenced district court action filed by the OESC and the alleged tax warrant.

11. On February 4, 2019, a default judgment was entered against Respondent in favor of Gilbert Gonzales in the amount of \$5,000.00 for a bail bond refund in the case styled as: *Gilbert Gonzales v. Kyle David Carter*, Case No. SC-2018-2024, District Court for Canadian County, State of Oklahoma.

12. As shown by the administrative history entered into evidence and testified to by Lewis Garrison, Respondent has a history of failing to comply with regulations, orders, and/or subpoenas of the Commissioner.

CONCLUSIONS OF LAW

13. Incorporating and re-adopting the preceding paragraphs, the Hearing Examiner also finds that the Commissioner has established by preponderance of the evidence the following Conclusions of Law.

14. Commissioner has established sufficient grounds pursuant to *36 Okla. Stat. Ann. § 1435.13(A)(1)* to deny Respondent's application for providing incorrect, misleading, incomplete, or materially untrue information in the license application. Specifically, Respondent failed to disclose his history of administrative actions before the Commissioner, the alleged tax warrant pending at the time and the district court action filed by the OESC.

15. Commissioner has established sufficient grounds pursuant to *36 Okla. Stat. Ann. § 1435.13(A)(2)* to deny Respondent's application wherein Respondent has an administrative history of violating regulations, subpoenas, and/or orders of the Commissioner.

16. The Hearing Examiner also finds that the Commissioner did not establish by preponderance of the evidence that grounds existed to deny Respondent's application pursuant to *36 Okla. Stat. Ann. § 1435.13(A)(8)* for using fraudulent, coercive, or dishonest practices, or

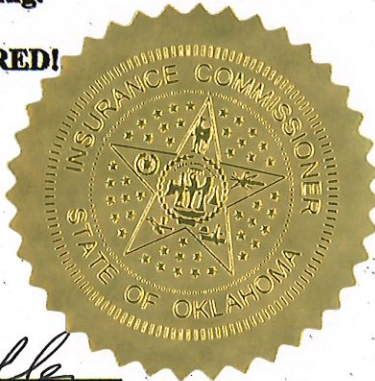
demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere.

ORDER

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that the Commissioner has established by preponderance of the evidence that sufficient grounds exist for denial of Respondent's Oklahoma resident insurance producer license application and that the application for an Oklahoma resident insurance producer license submitted by Respondent Kyle David Carter should be, and hereby is, **DENIED**.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Hearing Examiner that Respondent Kyle David Carter is assessed \$125.00 for costs and fees associated with the hearing.

IT IS SO ORDERED!



A handwritten signature in black ink, reading "Stephan S. Mathis".

Stephan S. Mathis
Administrative Law Judge of the
Oklahoma Insurance Department
Independent Hearing Examiner

Approved as to form:

A handwritten signature in black ink, reading "Brian C. Chandler".

Brian C. Chandler, OBA#31016
Assistant General Counsel
Legal Division
Oklahoma Insurance Department
3625 NW 56th Street, Suite 100
Oklahoma City, Oklahoma, 73112
Tel. (405) 521-2746

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing *Final Administrative Order* was mailed by certified mail, with postage prepaid and return receipt requested, on this 9th day of May 2019, to:

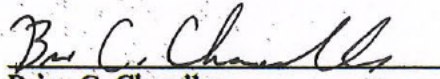
Kyle David Carter


CERTIFIED MAIL NO.

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and a copy was delivered to:

Courtney Khodabakhsh, Licensing Supervisor
Licensing Division


Brian C. Chandler