

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED
AUG 28 2019
INSURANCE COMMISSIONER
OKLAHOMA

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

Petitioner,

v.

EMILY MARIE OVERBY, a resident
insurance producer,

Respondent.

Case No. 19-0520-DIS

CONDITIONAL ADMINISTRATIVE ORDER
AND NOTICE OF RIGHT TO BE HEARD

COMES NOW the State of Oklahoma, ex rel. Glen Mulready, Insurance Commissioner,
by and through his counsel, Teresa L. Green, and alleges and states as follows:

JURISDICTION

1. Glen Mulready 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.*, including the Oklahoma Producer Licensing Act, 36 O.S. §§ 1435.1 *et seq.*

2. Respondent Emily Marie Overby ("Respondent") is a resident insurance producer in the State of Oklahoma, license number 40011976. Respondent's mailing address of record is

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 not less than \$100.00 nor more than \$1,000.00 for each occurrence of a violation of the Oklahoma Insurance Code. 36 O.S. § 1435.13(A) and (D).

FINDINGS OF FACT

4. On or about June 22, 2016, Argenia received a flood insurance application for Clay Speer covering property located at [REDACTED] ("Norman Property").

5. The Respondent submitted the June 22, 2016 application for Clay Speer.

6. A policy was issued with coverage dates from about June 24, 2016 through June 24, 2017 covering the Norman Property.

7. The policy was renewed with coverage dates of June 24, 2017 through June 24, 2018.

8. On August 24, 2017, a loss claim was filed for flood damage occurring on August 22, 2017 to the Norman Property. A settlement check was issued to Clay Speer.

9. On or about May 14, 2018, Argenia notified Clay Speer that the policy would be non-renewed effective June 24, 2018 due to losses.

10. On or about May 14, 2018, Argenia notified Respondent that the policy would be non-renewed effective June 24, 2018 due to losses.

11. On or about June 26, 2018, Argenia received an application for flood insurance from Omerta Zerboni Property Management, LLC for the Norman Property—with a zip code of 73069 ("OZ Application").

12. The OZ Application was signed by Clay Speer and Respondent.

13. The OZ Application asked "has this building ever flooded?" and "[h]as the building suffered any flood losses in the past 5 years?" Both questions were answered "No."

14. A policy was issued for the OZ Application with coverage dates of June 26, 2018 through June 26, 2019.

15. On or about August 15, 2018, a loss claim was filed for flood damage occurring on August 14, 2018. The location of loss was the Norman Property with the original zip code. The loss was reported by Terry Speer to Respondent.

16. At this time, Argenia noticed that the Norman Property was the covered property in the OZ Application and previously had non-renewed coverage.

17. On or about August 22, 2018, Respondent emailed Argenia stating she had been "mislead" by the client.

18. On or about August 7, 2019, Respondent stated to an Oklahoma Insurance Department investigator that "she was instructed to do what she did by ... [the] CEO [and]....that while she 'knew it was wrong' she had no choice." The Respondent also stated that she had no "proof."

19. The Insurance Commissioner may impose a civil fine for using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere. *See 36 O.S. § 1435.13(A)(8) and (D).*

CONCLUSIONS OF LAW

20. Respondent violated 36 O.S. § 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 when she submitted the OZ Application covering the Norman Property despite being notified of the non-renewal due to losses on the Norman Property.

ORDER

IT IS THEREFORE ORDERED by the Insurance Commissioner that Respondent is

hereby fined **FIVE HUNDRED DOLLARS (\$500.00) and CENSURED** for violation of 36 O.S. §§ 1435.13(A)(8). The \$500.00 fine is to be paid within thirty (30) days made payable to the Oklahoma Insurance Department. The \$500.00 civil fine shall be paid by money order or cashier's check. Respondent's application for a resident insurance producer license may be granted upon receipt of payment of the fine and reporting of the administrative action. Failure to pay the civil fine or request a hearing within thirty (30) days will result in your license application being withdrawn.

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 Findings 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 will become a Final Order on the thirty-first (31st) day following the date of mailing this Order. A request for hearing should be in writing addressed to Teresa L. Green, Oklahoma Insurance Department, Legal Division, 3625 NW 56th St., Suite 100, Oklahoma City, Oklahoma 73112. The request for hearing must state the grounds for the request to set aside or modify the Order.

Any such hearing will 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 will act as notice of the matters to be reviewed at the hearing, and the Findings of Fact, Conclusions of Law, and penalties imposed in this Conditional Order will be considered withdrawn, pending final resolution at the hearing.

WITNESS My Hand and Official Seal this 28th day of August, 2019.



GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAHOMA



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CERTIFICATE OF MAILING

I, Teresa L. Green, 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 28th day of August, 2019 to:

Emily Marie Overby

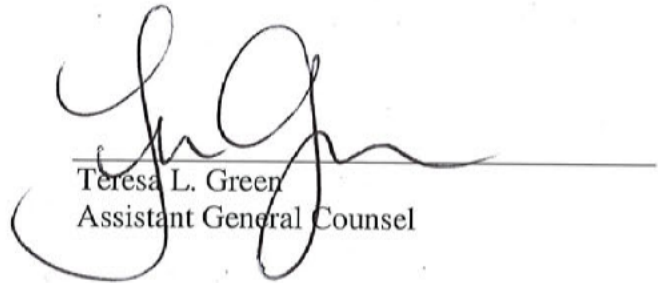


CERTIFIED MAIL NO.

9214 8902 0982 7500 0232 43

and a copy was delivered to:

Licensing Division


Teresa L. Green
Assistant General Counsel