

BEFORE THE INSURANCE COMMISSIONER OF THE
STATE OF OKLAHOMA

FILED
MAR 01 2021
INSURANCE COMMISSIONER
OKLAHOMA

STATE OF OKLAHOMA, ex rel. GLEN)
MULREADY, Insurance Commissioner,)
)
Petitioner,)
v.)
)
MARLEN PONCE,)
a resident producer,)
)
)
Respondent.)

Case No. 21-0079-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 counsel, Antuanya “Bo” DeBose, and alleges and states as follows:

JURISDICTION

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. §§ 101-7401*, including the Oklahoma Producer Licensing Act, *36 O.S. § 1435.1 et seq.*

2. Respondent Marlen Ponce (“Respondent”) holding license number 40007244, is licensed by the State of Oklahoma as a resident insurance producer. Respondent’s address of record is [REDACTED]

3. The Insurance Commissioner has jurisdiction over the subject matter raised in this dispute and may issue penalties pursuant to *36 O.S. § 1435.13(A) and (D)*.

4. Pursuant to *36 O.S. § 1435.13(D)*, in addition to or in lieu of any applicable denial, probation, censure, suspension or revocation of a license, a person may, after opportunity for

hearing, be subject to a civil fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each occurrence. The penalty may be enforced in the same manner in which civil judgments may be enforced.

5. If Respondent requests a hearing in writing in this matter, pursuant to *OAC 365:1-7-1*, the Insurance Commissioner, pursuant to *36 O.S. § 319*, will appoint an independent hearing examiner who shall sit as a quasi-judicial officer and preside over the hearing requested by Respondent.

6. The Insurance Commissioner, pursuant to *OAC 365:1-7-5*, upon written request reasonably made by a person affected by the hearing and at such person's expense, shall cause a full stenographic record of the proceedings to be made by a competent court reporter.

FINDINGS OF FACT

7. On or about November 2, 2020, Oklahoma Insurance Department's Anti-Fraud Division ("OID") received a complaint from Equity Insurance Company ("Equity") stating Respondent failed to record or forward premium payments totaling \$958.00 made by three (3) clients of Respondent's agency. OID assigned Investigator Rick Koch to follow up.

8. On or about November 19, 2020, Respondent was interviewed by phone. Respondent indicated she hired Lauren Sandoval ("Ms. Sandoval"), whom she did not previously know, in June of 2020. Respondent admitted she conducted no due diligence to confirm Ms. Sandoval's personal information. Ms. Sandoval collected premium payments, uploaded the payments to Equity's database, and provided receipts to clients. Ms. Sandoval worked for Respondent from June 2020 until the last week of September 2020, when Ms. Sandoval quit. Respondent stated after Ms. Sandoval quit, a client came into her office to complain that his policy had been cancelled. Respondent checked her office records and compared them to company records, finding that the

money for three (3) clients had been received and receipted through her office by Ms. Sandoval, but the money was never forwarded to Equity.

9. Equity has closed their file on this matter after receiving all outstanding premium from Respondent.

10. Investigator Koch discovered during the course of his investigation that Respondent has her business address listed with OID as 6145 East 21st Street, Tulsa, Oklahoma 74114 and primary business phone number as (918) 832-8823, both of which belong to an agency Respondent formerly worked at. Investigator Koch advised Respondent on or about November 19, 2020 that the information on file with OID is inaccurate and needs to be updated to Respondent's current business address of 2118 East 3rd Street, Tulsa, Oklahoma 74104 and current business phone number (918) 298-0360. As of March 1, 2021, Respondent has failed to update this information.

11. Pursuant to the provisions of *36 O.S. §1435.13*:

a. 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 or may levy a civil penalty in accordance with subsection D of this section or any combination of actions, for any one or more of the following causes:

i. Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business.

ii. Violating any insurance laws, or violating any regulation, subpoena or order of the Insurance Commissioner or of another state's Insurance Commissioner

a. In addition to or in lieu of any applicable denial, probation, censure, suspension or revocation of a license, a person may, after opportunity for hearing, be subject to a civil

fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) for each occurrence. Said penalty may be enforced in the same manner in which civil judgments may be enforced.

CONCLUSIONS OF LAW

12. Respondent has violated *36 O.S. §1435.4(A)* by improperly withholding three (3) premium payments in the amount of \$958.00, failing to properly record and forward those premium payments to Equity.

13. Respondent has violated *36 O.S. §1435.13(A)(2)* by failing to inform OID of a change in address within thirty (30) days of the change, in violation of *36 O.S. §1435.8(F)*. Respondent still has her previous business address of 6145 East 21st Street, Tulsa, Oklahoma 74114 listed with OID instead of her new business address 2118 East 3rd Street, Tulsa, Oklahoma 74104.

ORDER

IT IS THEREFORE ORDERED that Respondent is hereby **CENSURED** and **FINED** Eight Hundred Dollars (\$800.00). The fine shall be paid within 30 days of the date of this Conditional Administrative Order and made payable to the Oklahoma Insurance Department. The fine shall be sent to the Oklahoma Insurance Department located at 400 NE 50th Street, Oklahoma City, Oklahoma 73105. Failure to comply with a proper order of the Commissioner will result in further administrative action.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Insurance Commissioner that this Order is a Conditional Order. Unless Respondent requests a hearing with respect to the Findings of Fact set forth above within 30 days of the date of this Conditional Order, the penalties set forth above will become a Final Order on the 31st day following the date of

mailing this Order. A request for hearing should be in writing and addressed to Antuanya “Bo” DeBose, Oklahoma Insurance Department, Legal Division, 400 NE 50th Street, Oklahoma City, Oklahoma 73105. The request for hearing must state the grounds for the request to set aside or modify the Order and must be served on the Oklahoma Insurance Department within the 30 days allotted. The proceedings on such requested hearing will be conducted in accordance with the Oklahoma Insurance Code, 36 O.S. §§ 101 et seq., and the *Oklahoma Administrative Procedures Act*, 75 O.S. §§ 250 through 324. If Respondent serves a timely request for hearing on the Oklahoma Insurance Department, this Conditional Order will act as a 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 shall be considered withdrawn, pending final resolution at the hearing.

WITNESS My Hand and Official Seal this 1st day of March 2021.



GLEN MULREADY
INSURANCE COMMISSIONER
STATE OF OKLAHOMA

A handwritten signature in blue ink that reads "A. DeBose".

Antuanya “Bo” DeBose
Assistant General Counsel
Oklahoma Insurance Department
400 NE 50th Street
Oklahoma City, Oklahoma, 73105
Tel. (405) 521-2746
Fax (405) 522-0125

CERTIFICATE OF MAILING

I hereby certify that a true and correct copy of the above and foregoing *Conditional Order* was mailed by regular mail and by certified mail, with postage prepaid and return receipt requested, on this 1st day of March, 2021, to:

Marlen Ponce



CERTIFIED MAIL NO:
9214 8902 0982 7500 0351 16

Marlen Ponce
2118 East 3rd Street
Tulsa, Oklahoma 74104

CERTIFIED MAIL NO:
9214 8902 0982 7500 0351 23

and a copy was delivered to:

Licensing Division



Antuanya "Bo" DeBose
Assistant General Counsel