

FILED

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BEFORE THE INSURANCE COMMISSIONER ~~INSURANCE~~ COMMISSIONER
STATE OF OKLAHOMA OKLAHOMA

IN RE: HEARING PURSUANT TO 36 O.S.)
§ 984 AS TO WHETHER THE OKLAHOMA) CASE NO. 26-0820-TRN
HOMEOWNERS INSURANCE MARKET)
IS NONCOMPETITIVE)

**JOINT MOTION OF THE OKLAHOMA ATTORNEY GENERAL AND BOB
SULLIVAN TO STAY PROCEEDINGS PENDING ORIGINAL ACTION IN THE
SUPREME COURT OF OKLAHOMA**

COME NOW the State of Oklahoma, ex rel. Gentner Drummond, Attorney General of the State of Oklahoma (the "Attorney General"), a party to this proceeding pursuant to 74 O.S. § 18b(A)(22) and the Notice of Hearing filed herein on July 14, 2026, and Bob Sullivan, an interested party of record who entered his appearance on August 26, 2026 (together, "Movants"), and move the Hearing Examiner to stay further substantive proceedings in this matter pending the disposition of an application to assume original jurisdiction and petition for writs of prohibition and mandamus that Movants will file in the Supreme Court of Oklahoma. In support, Movants state:

1. **The October 2 Order.** On October 2, 2026, Stephan S. Mathis, apparently designated by the Commissioner under 75 O.S. § 316, entered an Order Denying the Joint Affidavit Seeking Disqualification of the Independent Hearing Examiner and the Insurance Commissioner (the "Order"). The Order denies the request that the Hearing Examiner be disqualified, denies as moot the request that the Commissioner withdraw, and directs that "the proceeding shall resume under the Hearing Examiner without further delay." Order at 11–12. Movants will seek review of the Order by original action. By making this motion they concede none of the Order's findings.

2. **Relief is sought here first.** The rules of the Supreme Court require a motion to stay proceedings below to show that relief was first sought from the tribunal below. Okla. Sup. Ct. R.

1.15(c)(2). Movants make this motion so that the Hearing Examiner may rule on it before the Supreme Court is asked to act. The Order recognizes that a hearing examiner presiding over a proceeding “necessarily has the authority to do all things necessary and incidental to conducting the proceeding.” Order at 9–10.

3. **The questions presented to the Supreme Court are substantial.** The Affidavit named both the Hearing Examiner and the Commissioner. The Commissioner, a subject of the Affidavit and the Department’s anticipated witness, selected the officer who determined it, without notice to the parties and over the objection Movants stated on September 15, 2026. Sept. 15 Tr. 17:7–16. The officer he selected is the Department’s other contract hearing examiner. One ground of the Affidavit was the Hearing Examiner’s compensated engagement with the Department, Affidavit ¶ 26, and the Order disposed of that ground on the basis that the arrangement “is not alleged to be materially different than any other hearing examiner utilized by the Department.” Order at 10. The Order disposed of the request as to the Commissioner on the basis that he has no adjudicative, decisional, or supervisory role and cannot review the Hearing Examiner’s final order, while holding that the Commissioner’s anticipated testimony, his April 7, 2026 order, and his public statements have no bearing on the impartiality of the examiner who will weigh that testimony. Order at 11.

4. **Movants do not acquiesce in the designation.** Section 316 commits the issue to “the administrative head of the agency,” and the Department has stated that the Commissioner “is required to rule on this issue.” Response ¶ 8. The authority it invoked to designate another officer, 36 O.S. §§ 307 and 319, permits the Commissioner to have matters heard by hearing examiners he appoints and, “[i]n conducting any hearing pursuant to the Insurance Code,” to appoint an independent hearing examiner. Neither provision addresses who determines an affidavit under 75

O.S. § 316, and nothing in the Insurance Code displaces that section, so 36 O.S. § 313(B) has no conflict to resolve. As to the Commissioner's own disqualification, § 316 assigns the issue to "the remaining members" of the agency, of which there are none, and the Department claimed authority to designate only "to determine if there are grounds to disqualify the current Hearing Examiner." Response ¶ 8. Movants objected on September 15, 2026 that the Commissioner could not select the officer who decides, Sept. 15 Tr. 13:11–13, 17:7–16, and received no notice of the designation before the Order issued. Movants preserve their objection that the Order was entered without authority under § 316.

5. **Proceeding now would cause harm that later review cannot repair.** If the Supreme Court grants relief, rulings entered in the meantime would be exposed to vacatur and repetition. The Supreme Court has affirmed the "nullification and reversal" of a proceeding marked by an appearance of impropriety and conflict of interest. *Bowen v. State ex rel. Oklahoma Real Estate Appraiser Board*, 2011 OK 86, ¶ 23, 270 P.3d 133, 139. "[T]he lack of due process resulting from a biased tribunal cannot be corrected on appeal." *Johnson v. Board of Governors of Registered Dentists*, 1996 OK 41, ¶ 14, 913 P.2d 1339, 1344.

6. **A stay prejudices no participant.** This matter has been stayed since September 15, 2026, and the Hearing Examiner's Administrative Order of September 28, 2026 struck "any hearing dates or schedules previously set," including the October 26, 2026 merits hearing. A short further stay preserves that position. While the matter is stayed, the statutory presumption that a competitive market exists continues to govern. 36 O.S. § 984(A). No insurer is subject to any order in the interval.

7. **The public interest favors a stay.** The question below, whether the homeowners insurance market of this State is noncompetitive, affects insurance consumers statewide, and the

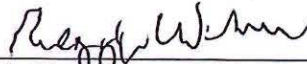
Attorney General appears to represent their collective interest. 74 O.S. § 18b(A)(22). That question should be decided once, by a tribunal whose composition is settled, and not twice.

8. **The stay requested is limited.** Movants intend to file the original action on or before October 8th, 2026. They ask that the stay extend to substantive rulings, including rulings on the pending motions, and to the conduct of any evidentiary hearing. They do not ask that the exchange of filings or any other non-substantive step be suspended.

9. **A ruling is requested by a date certain.** So that the Supreme Court may have the Hearing Examiner's ruling, Movants request a written ruling on or before October 7th, 2026, at noon. If no ruling has issued by then, Movants will so advise the Supreme Court.

WHEREFORE, PREMISES CONSIDERED, Movants respectfully request that (1) further substantive proceedings in this matter, including rulings on the pending motions and any evidentiary hearing, be stayed pending the Supreme Court's disposition of Movants' original action; (2) the Hearing Examiner rule on this motion by written order entered on or before October 7th, 2026, at noon; and (3) Movants be granted such other and further relief as is fair and proper.

Respectfully submitted,



Reggie N. Whitten, OBA No. 9576
Michael Burrage, OBA No. 1350
Blake Sonne, OBA No. 20341
Hannah Whitten, OBA No. 35261
Jake Denne, OBA No. 35097
WHITTEN BURRAGE
512 North Broadway Avenue, Suite 300
Oklahoma City, OK 73102
Office: 405.516.7800
Facsimile: 405.516.7859
rwhitten@whittenburragelaw.com
mburrage@whittenburragelaw.com
bsonne@whittenburragelaw.com
hwhitten@whittenburragelaw.com
jdenne@whittenburragelaw.com
*Attorneys for the State of Oklahoma, ex rel.
Gentner Drummond, Attorney General*



Michael J. Hunter, OBA No. 4503
Michael J. Hunter, PLLC
100 N. Broadway
Suite 3020
Oklahoma City, OK 73102
Telephone: (405) 985-3828
mike@mjhlaw.net
Attorney for Bob Sullivan

CERTIFICATE OF SERVICE

I, Michael J. Hunter, hereby certify that on this 5TH day of October, 2026, a true and correct copy of the above and foregoing **JOINT MOTION OF THE OKLAHOMA ATTORNEY GENERAL AND BOB SULLIVAN TO STAY PROCEEDINGS PENDING ORIGINAL ACTION IN THE SUPREME COURT OF OKLAHOMA** was filed with the Oklahoma Insurance Department by electronic mail to OIDlegal@oid.ok.gov, and was served by electronic mail upon:

Nicole M. Nash Antuanya "Bo" DeBose
Oklahoma Insurance Department
Legal Division OIDlegal@oid.ok.gov
Nicole.nash@oid.ok.gov
Bo.debose@oid.ok.gov

**The Honorable John D.
Miller**
Independent Hearing Examiner
Oklahoma Insurance Department [via
OIDlegal@oid.ok.gov]

**The Honorable Stephan S.
Mathis**
Independent Hearing Examiner
Designated Pursuant to 75 O.S. § 316
Oklahoma Insurance Department [via
OIDlegal@oid.ok.gov]

Craig MacIntyre
Oklahoma Insurance Commissioner Candidate
Craigforcommish26@gmail.com

Dr. Robert Hartwig
American Property Casualty Insurance
Association National Association of Mutual
Insurance Companies Walter.gonzales@apci.org

Brett Robinson
Oklahoma P&C Advocacy Association 608
E. Eubanks St
Oklahoma City, OK 73105
Telephone: (405) 965-9131
Email: brobinsoni@hbstrategies.us

J. Blake Patton, OBA No. 30673
Caleb E. Evans, OBA No. 36108
GABLEGOTWALS
BOK Park Plaza
499 W. Sheridan Ave, Suite 2200
Oklahoma City, OK 73102
Telephone: (405) 235-5500
Email: bpatton@gablelaw.com
cevens@gablelaw.com

Trent Shores, OBA No. 19705
Jason Seay, OBA No. 22007
GABLEGOTWALS
110 N. Elgin Ave., Suite 200
Tulsa, OK 74120
Telephone: (918) 595-4800
Email: tshores@gablelaw.com
jseay@gablelaw.com


Michael J. Hunter