

**BEFORE THE INSURANCE COMMISSIONER  
FOR THE STATE OF ARKANSAS**

**IN THE MATTER OF:**

**GINGER MCFADDEN, NPN 3414414;  
BRETT MCFADDEN, NPN 3142220;  
KELSEY MCFADDEN, NPN 19900525;**

**AND**

**MCFADDEN INSURANCE AGENCY**

**RESPONDENTS**

**A.I.D. ORDER NO. 2022- 36**

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**CEASE AND DESIST ORDER**

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Now on this day the matter of Ginger McFadden, Brett McFadden, Kelsey McFadden, and McFadden Agency (“Respondents”) is taken under consideration by Alan McClain, Insurance Commissioner for the State of Arkansas (“Commissioner”), with the Arkansas Insurance Department (“Department”) appearing through Amanda Gibson, Associate Counsel. From the facts, matters and other items before him, the Commissioner finds and concludes as follows:

**FINDINGS OF FACT**

1. The Commissioner has jurisdiction over the parties and of the subject matter pursuant to Ark. Code Ann. §§ 23-61-103 and 23-64-512(e).
2. Respondents do business in Craighead County.
3. The individual respondents, Ginger, Brett, and Kelsey McFadden are licensed insurance agents.
4. The agency respondent, McFadden Insurance Agency, is unlicensed.
5. Respondents are holding out the agency as a licensed agency through which they purport to transact the business of insurance.
6. The Facebook page of the agency states, “We offer: Auto, Homeowners, Business, Life, Recreational & more! Call for a quote!” Solicitation and providing quotes constitute licensable acts under Ark. Code Ann. § 23-64-502(14).

7. The Facebook page of the agency further states, “Our office has gone independent! meaning we can offer multiple carriers providing the right coverage with the best company, at the best price for you. Contact Brett or Kelsey at: Phone: 870-938-0958 FAX: 870-938-0959 624 S. Main Street Suite 101 Jonesboro, AR 72401”
8. The Facebook page has been in existence since at least April 20, 2022.
9. Respondent Brett McFadden, through the McFadden agency, has engaged in selling insurance.
10. Respondent Brett McFadden, while a licensed agent, is not appointed with any insurers.

### **CONCLUSIONS OF LAW**

1. The Commissioner, as authorized by Ark. Code Ann. § 23-61-103(f)(1)(A), may summarily order a person or entity to cease and desist from an act or practice if there is a reason to believe that a person or entity has engaged in or is about to engage in any act or practice constituting a violation of an insurance law, rule, or order of this state.
2. Ark. Code Ann. § 23-64-502(12) provides, ““Person” means an individual or a business entity”.
3. Ark. Code Ann. § 23-64-503 provides, “A person shall not sell, solicit, or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority in accordance with this subchapter.”
4. Ark. Code Ann. § 23-64-503(b) provides, “A business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the Uniform Business Entity Application. Before approving the application, the commissioner shall find that: (1) The business entity has paid the fees set forth in § 23-61-401 and any existing or future rule and regulation; and (2) The business entity has designated a licensed producer responsible for the business entity’s compliance with the insurance laws and rules of this state.”
5. Respondent McFadden Agency, in advertising as being in the business of insurance, and in fact engaging in the business of producing, is in violation of Ark. Code Ann. § 23-64-503(b) by being unlicensed and by not designating a responsible licensed producer.
6. Ark. Code Ann. § 23-64-514(a) provides, “An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed agent of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.”

7. Respondent Brett McFadden is in violation of Ark. Code Ann. § 23-64-514 by selling insurance without being appointed with any insurer.

**ORDER**

IT IS THEREFORE ORDERED AS FOLLOWS:

1. Pursuant to Ark. Code Ann. § 23-61-103(f)(1)(A), Respondents are hereby ordered to immediately cease and desist from the conduct of the sale, solicitation, or consulting of insurance in this state, to include the removal of any social media or any other type of advertising as such.
2. Respondents are given notice that upon written request to the Commissioner received within thirty days of the entry of this order, a hearing shall be held under Ark. Code Ann. § 23-61-303 to determine if the cease and desist order should continue. If no hearing is requested, the order shall remain in effect until it is modified or vacated by the Commissioner and shall be considered a final agency action.

IT IS SO ORDERED THIS 6<sup>th</sup> DAY OF MAY, 2022.



ALAN MCCLAIN  
INSURANCE COMMISSIONER  
STATE OF ARKANSAS