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IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
v.)
)
JOSHUA DUCKWORTH)
DOB:08/30/1989)
)
Defendant.)

Cas **CF-2013-1239**

DISTRICT COURT
FILED

MAR 12 2013

SALLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

INFORMATION

In the name and by the authority of the State of Oklahoma:

E. Scott Pruitt, Attorney General of Oklahoma, in and for the State and County aforesaid, gives the Court to know and be informed as follows:

Joshua Duckworth, in Tulsa County, State of Oklahoma on or about March 27, 2012, did commit the crime of **WORKERS' COMPENSATION FRAUD** in violation of Title 21 O.S. § 1663(C)(1) by unlawfully, willfully feloniously, and intentionally misrepresenting the facts and circumstance related to the cause of his injuries to his face and right hand during a deposition to Blake Whitten, an attorney representing his employer L.E.F. Inc., and CompSource Oklahoma insurance carrier in support of a claim for payment or other benefits from his employer, L.E.F., Inc. and CompSource Oklahoma insurance carrier pursuant to contract of insurance during the pendency of his Workers' Compensation Claim in the Workers' Compensation Court case of Joshua Duckworth v. L.E.F., Inc, and CompSource Oklahoma insurance carrier case number 2011-13270X, to-wit:

On December 9, 2011, the Defendant filed or caused to be filed a Form 3,

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Employee's First Notice of Accidental Injury and Claim for Compensation form with the Oklahoma Workers' Compensation Court alleging that he sustained a work-related injury caused by a "torch [that] was leaking and ignited" and caused "disfigurement: skin burns" while working for said L.E.F., Inc. On March 27, 2012, the Defendant testified at a deposition in Case No. 2011-13270X before the Workers' Compensation Court, State of Oklahoma. During the deposition, the Defendant misrepresented material information about the cause of his injuries as follows:

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Line 10 Q Okay. Josh, kind of start me at the beginning and walk me through the series of events that led to the burn that you sustained out there the same night that you were working with Andrew and Nathan.

Line 14 A It was roughly 10:30 and I went over there to get the torch from the TLZ 4, and I walked over there by the computer over by the – where Nathan's desk is right there, and I set it right there. We was about to go on break at 10:30, and I probably sat there for fifteen minutes, ten or fifteen minutes, and I was rolling a lighter in my hand and boom.

Page 34

Line 20 Q Okay. And while you were standing here, you said you had a lighter in your hand?

Line 22 A Um-hum.

Line 23 Q How long had you been standing there before you put that lighter in your hand or had you had with you the en –

Line 25 A Well, I was just fixing to go outside and I had pulled

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Line 1 A it out of my pocket, so probably seven or eight minutes.

Line 2 Q Okay, and how far are you standing from the tank?

Line 3 A I don't even know.

Line 4 Q Well, I mean, are you standing like right next to it

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where you could rest your elbow on it?

- Line 6 A No.
- Line 7 Q Are you standing, you know, as far as I am to your attorney, say, roughly, you know, six feet?
- Line 9 A Roughly, yeah.
- Line 10 Q Okay, so about six feet?
- Line 11 A Um-hum.
- Line 12 Q Okay, and what happened at that point?
- Line 13 A After what?
- Line 14 Q Well, I mean, what do you remember? I mean – you you take – you go over there, you guys are talking, you know, doing what coworkers do, and I mean, you get your lighter out, and what do you remember, you know, what's the next thing that happened?
- Line 19 A I don't event really remember rolling it or striking it or anything. I just – boom, like that, and I dropped down to my knees.
- Line 22 Q While you were standing there in this area with Andrew and Nathan, did you have your lighter out striking it?
- Line 24 A Yes sir.
- Line 25 Q Okay. Do you remember how many times you did that
- Page 36
- Line 1 Q for?
- Line 2 A No.
- Line 3 Q For lack of a better description, boom goes the dynamite, do you remember how long it was, --

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Line 5 A No, sir.

Line 6 Q – how many times?

Line 7 A I don't.

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Line 7 Q Okay. From your perspective, describe for me, if you will, this fireball or this flash fire, describe for me what you remember occurring.

Line 10 A A big orange, bright flash. I dropped down to my knees, I was blind for a second.

Line 12 Q Do you remember the blast coming at you from the front, did it come at you from behind?

Line 14 A I can't tell you, I don't know.

Line 15 Q Okay. Did you feel a concussion like an explosion or was it just a poof?

Line 17 A It was big enough to knock my glasses off my head.

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Line 1 Q Okay. How big a fireball would you say this was?

Line 2 A I didn't see it, I just seen a big flash.

Line 3 Q You just saw an orange flash?

Line 4 A Yeah.

Line 5 Q And it's my understanding from what you're telling me that the flash occurred near the TLZ 3 machine?

Line 7 A Yes, sir.

Line 13 Q Okay, let's go over, first of all, as a result of that incident that you've just described, what parts of your body were burned in that accident?

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Line 16 A My hand and my face.

Line 17 Q Which hand?

Line 18 A My right hand.

Line 19 Q Which side of your face, or the whole thing?

Line 20 A. I think it was the whole thing. I mean, it wasn't a particular side.

The Defendant misrepresented this information with the intent to deceive Brandon Whitten, attorney for L.E.F., Inc., and CompSource insurance provider and with the intent to injure, defraud, and deceive L.E.F., Inc.

All of which is contrary to the form of the statutes in such cases made and provided, and against the peace and dignity of the State of Oklahoma.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA

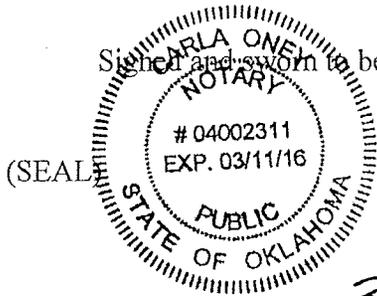
By: *Kristin M. Fulton*
KRISTIN M. FULTON, OBA #21185
Assistant Attorney General
907 S. Detroit Ave., Suite 750
Tulsa, OK 74135
(918) 581-2686

STATE OF OKLAHOMA)
)
) ss.
COUNTY OF TULSA)

I do solemnly swear that the statements and allegations set forth in the within information are true and correct to the best of my information and belief.

Kristin M. Fulton
KRISTIN M. FULTON
Assistant Attorney General

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Signed and sworn to before me on the 11th day of March, 2013, by Kristin M. Fulton.

Carla Oney
Notary of the Public

My Commission Expires: 3-11-16

I have examined the fact in this case and recommend that a warrant do issue.

E. SCOTT PRUITT
ATTORNEY GENERAL OF OKLAHOMA

By Kristin M. Fulton
KRISTIN M. FULTON
Assistant Attorney General

Penalties
Count 1: 21 OS 1663 - Imprisonment in the state penitentiary not exceeding seven (7) years and/or by a fine not exceeding Ten Thousand Dollars (\$10,000.00).

Don Holman
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Oklahoma City, OK 73152

Courtney Leach
CompSource Oklahoma
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Oklahoma City, OK 73152

Bryan Aaron
CompSource Oklahoma
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Oklahoma City, OK 73152

Steve Nash,
c/o L.E.F., Inc.
9401 S. 54th St.
Tulsa, OK 74145

Jose Esparza Figueroa
c/o L.E.F., Inc.
9401 S. 54th St.
Tulsa, OK 74145

Joshua Salisbury
c/o L.E.F., Inc.
9401 S. 54th St.
Tulsa, OK 74145

David Durban
c/o L.E.F., Inc.
9401 S. 54th St.
Tulsa, OK 74145

Brian Johnson
c/o L.E.F., Inc.
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Tulsa, OK 74145

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Tulsa, OK 74103

Kenneth P. Duke
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Randy Engleman, DO
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Paul Shellabarger, MD
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Blake Whitten
Attorney at Law
P.O. Box 2875
Tulsa, OK 74101

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THE STATE OF OKLAHOMA,)
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AFFIDAVIT OF PROBABLE CAUSE

The undersigned, being first duly sworn and upon oath, does depose and state as follows:

SABLY HOWE SMITH, COURT CLERK
STATE OF OKLA. TULSA COUNTY

I, Carl Reed, am employed as an investigator with the Workers' Compensation and Insurance Fraud Unit in the Office of Attorney General. I was assigned to investigate an alleged case of workers' compensation fraud involving Joshua Duckworth, DOB: 08/30/89. In the course of my investigation I obtained and reviewed various medical records, surveillance video, transcripts, written statements, and Workers' Compensation Court files, as well as conducted witness interviews.

On November 19, 2011, between approximately 3:30 p.m. and midnight, Duckworth was working the evening shift at L.E.F., Inc. located at 9401 E. 54th St. Tulsa, OK 74145 in the City of Tulsa and Tulsa County. At this time, Duckworth worked as a laser and machine operator along with co-workers Andrew Ozias, Nathaniel McAlexander, and Jose Esparza Figuero who were also present.

Between 2:00 and 3:00 a.m., on November 20, 2011, Duckworth called his supervisor Joshua Salisbury at home and reported that he (Duckworth), Ozias, and McAlexander were each burned by a flash fire. Duckworth explained that a leaking acetylene tank associated with a piece of welding equipment inside the business caused the flash fire. Immediately following this telephone call, Salisbury drove to L.E.F., Inc. and inspected the work area in which Duckworth reported the accident occurred. Salisbury found the work area undisturbed, and the welding equipment in question, including the oxygen and acetylene tanks, related tubing, and equipment to be in proper working order and without signs of a flash fire.

According to Salisbury, acetylene gas, like natural gas, has a distinct odor. Thus, anyone standing in the vicinity of a leaking acetylene gas tank would detect the acetylene leak before an explosion. Further when acetylene gas burns it causes an oily soot to cover everything in the area surrounding the flame. On November 20, Salisbury observed no oily soot on or near the welding equipment, tanks, tubing, or the work station located next to the tanks.

Jose Esparza Figuero was the fourth person working at L.E.F., Inc. on November 19, 2011, during the evening shift. He did not see or hear a flash fire or explosion though he was working approximately 10 to 12 meters from the area Duckworth claims this flash fire occurred. Further, he did not see any

evidence of a flash fire anywhere around the area where the claimants stated the accident occurred.

David Durbin is the welding supervisor at L.E.F., Inc. Later on the morning of November 20, 2011, Durbin used the same set of tanks and welding equipment to weld a project before he became aware of the alleged flash fire the previous night. He found the tanks and welding equipment in proper working order and completed the welding project without incident.

Gary Jackson is the operations manager for Wilbanks Welding Supply. Wilbanks Welding Supply owns and leases to L.E.F., Inc. acetylene tanks and related welding equipment and sells L.E.F., Inc. acetylene and oxygen gases. On November 20, 2011, Jackson examined the welding equipment including the tanks, hoses, and torch in question at L.E.F., Inc. Jackson discovered no damage to any of the tanks or welding equipment, and nor did he see any evidence of a leak or fire on the tanks and welding equipment or in the surrounding work area. Jackson further stated that when acetylene gas burns it emits a oily soot that covers everything in the area surrounding the fire. Had the fire occurred in the manner described by Duckworth it would have covered the equipment and surrounding area. Further, a fire caused by a leaking acetylene gas tank or tubing would have continued to burn until the flame was consumed inside of the acetylene gas tank and resulted in the tank exploding.

On November 20, 2011, Steve Nash a supervisor at L.E.F., Inc., discovered items of evidence outside the northwest entrance to L.E.F., Inc. Nash photographed and collected these items which include: a soot covered blue Bic cigarette lighter found in the grass, a pressure tank believed to store acetylene gas, fragments of a balloon, a burned and exploded five-gallon plastic container, and two plastic drinking bottles believed to have been used as a small, explosive devices.

During the late evening hours of November 19, 2011, Dr. Randy A. Engelmann at Saint Francis Hospital, 6161 South Yale Ave., Tulsa, Oklahoma treated Duckworth for his burns. Medical records from Saint Francis Hospital reveal Duckworth was brought to the Trauma Emergency Care Center with complaints of hand and facial burns. The history given by Duckworth states he was at work when a acetylene torch went off.

On December 9, 2011, the Defendant filed or caused to be filed a Form 3, Employee's First Notice of Accidental Injury and Claim for Compensation form with the Oklahoma Workers' Compensation Court alleging that he sustained a work-related injury caused by a "torch [that] was leaking and ignited" and caused "disfigurement: skin burns" while working for said L.E.F., Inc.

Subsequently, Duckworth saw Dr. Paul A. Shellabarger, 1732 Southwest Boulevard, Tulsa, Oklahoma, on December 16, 2011, for burns he sustained on the job at L.E.F., Inc. Duckworth told Dr. Shellabarger "that on November 19, 2011, he was using a torch and there was a leak in the system. There was an explosion which injured both him, a co-worker and his supervisor."

On March 27, 2012, Duckworth was present at the Law Office of Frasier, Frasier & Hickman, 1700 Southwest Boulevard, Tulsa, Oklahoma in the City of Tulsa and Tulsa County. At this time, Duckworth gave the following testimony in Workers' Compensation Court case, 2011-13270X:

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Line 17 Q. Which hand?

Line 18 A. My right hand.

Line 19 Q. Which side of your face, or the whole thing?

Line 20 A. I think it was the whole thing. I mean, it wasn't a particular side.

This version of events testified to by Duckworth in Workers Compensation Court case, 2011-13270X does not comport with physical evidence present at the work site or the testimony of the other witnesses present at the scene. The Defendant misrepresented this information with the intent to deceive Brandon Whitten, attorney for L.E.F., Inc., and CompSource insurance provider in the above numbers Workers' Compensation Court case.

Accordingly based upon the above information, I believe that probable cause exists to show Joshua Duckworth committed the crime of Workers' Compensation Fraud, in violation of 21 O.S. § 1663 (C)(1), when he misrepresented facts and circumstances regarding the claim for workers' compensation benefits. Therefore, I request that a warrant be issued for his arrest.



Carl Reed, AFFIANT

STATE OF OKLAHOMA)
) ss.
COUNTY OF OKLAHOMA)

Subscribed and sworn to before me this 8th day of March, 2013, by
Carl Reed.

Angela R. McAllen

Notary Public

(SEAL)

My Commission Expires: _____

