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1.



IN THE DISTRICT COURT OF TULSA COUNTY
STATE OF OKLAHOMA

STATE OF OKLAHOMA,)
)
Plaintiff,)
)
v.)
)
Nathaniel Eugene McAlexander)
DOB: 07/22/1977)
)
Defendant.)

CF-2013-1238
Case No. _____

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:

Nathaniel Eugene McAlexander, in Tulsa County, State of Oklahoma on or about February 14, 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 misrepresented the facts and circumstance related to the cause of his injuries to his face 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 Nathaniel McAlexander v. L.E.F., Inc, and CompSource Oklahoma insurance carrier case number 2011-13552Q, to-wit:

On December 12, 2011, the Defendant 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 to his right hand

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and right arm caused by “torch malfunction, flash fire”, while working for said L.E.F., Inc. On February 14, 2012, the Defendant testified at a deposition in Case No. 2011-13552Q 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 2 Q Okay. Now, Nate, just so I am on the same page, because some of this may not be relevant, we are gonna talk about an incident that occurred on November 19th where you were burned from an incident at LEF, correct?

Line 6 A Correct.

Line 7 Q Now, what parts of your body are you claiming were burned in that incident?

Line 9 A My right hand.

Line 10 Q Okay. Any other part of your body other than your right hand?

Line 12 A I had a right forearm, call it minor burn.

Line 13 Q Okay, so your right hand and your right forearm?

Line 14 A Yes.

Line 15 Q Any other parts of your body? Any, you know, --

Line 16 A I was – minor, I had a little, I call it a lick on my face, you know, a little bit of –

Line 18 Q Okay.

Line 19 A I had a little red on my face, but it was nothing that the – the hospital –

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Line 21 Q Okay. Alright, Nate, I want you to go through and I want you to explain to me in your own words what happened on November 19, 2011.

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Line 1 off of. Like normal, doing paperwork, I have the machine running. Andrew and Josh were behind me, and all – all I know is there was like a whoosh or a poof and there was a flame and the next thing I know, I was doing this and shaking my hand and I was burnt.

Line 6 Q Okay.

Line 7 A It – it happened so quick.

Line 8 Q About what time of day are we?

Line 9 A Close – close to about 10:45, 11:00.

Line 16 Q What part of the shop are you guys at?

Line 17 A The far west side, west side of the shop.

Line 18 Q Okay, so what is it that led you and Josh and Andrew to all be standing in the same area?

Line 20 A There were – there were times when we would come together and talk. I think we may have been getting ready for a break. It was a Saturday night, so schedules were a little different than normal, our break schedules and such. But that's – that's one of the places we usually come to – to discuss things, is in front of the TLZ 3. There was

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Line 1 a desk with a computer, all my paperwork's there. At the same time, I'm running the machine that's right there.

Line 6 Q Okay, so – so, I mean, what do you remember about the events that led to this whoosh? And a fireball, explosion, whoosh, I kind of mean all those the same thing.

Line 9 A As far as I know, I was doing my paperwork, I heard them discussing something, and that's just how – I mean, just before that, I had just talked to 'em saying, you know, I'm gonna do this because were trying to get out of there by

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midnight because it was a Saturday. We usually don't work on Saturday nights. And I was doing my paperwork, I said, "Okay, I'm gonna" get this done," and that's when, you know, as -- as I was turning, it was happening.

Line 18 Q Okay. When you were sitting at your desk, did you see Andrew or Josh, either one of 'em, did you see 'em come up behind you?

Line 21 A I didn't see 'em come up behind me, but they were behind me.

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Line 14 Q Does your desk face out into the plant itself or is it kind of back in the corner?

Line 16 A The desk faces the side of the machine. Say the machine is on that side, --

Line 18 Q Okay.

Line 19 A -- the desk faces this. Back towards me is the -- the TLX, the big -- the big machine on the other side of the shop, that -- that faces out towards the outside or the westside of the shop.

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Line 2 Q Okay. When they came up, did you keep working or did you turn around and talk to 'em?

Line 4 A I turned and talked to 'em for a -- a brief moment just to, you know, let 'em know this is what I'm doing, gonna try to wrap it up and get out of here by midnight.

Line 7 Q And what do you remember next?

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Line 1 Q Are you all closer in proximity than we are?

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Line 2 A I would say they [Joshua and Andrew] were standing right behind me. I mean, I'm gonna stand up.

Line 4 Q Yeah, go ahead.

Line 5 A I'm like this and they're like right here.

Line 6 Q So are they within three feet of you?

Line 7 A I would say so.

Line 8 Q Gosh, they –

Line 9 A Three to five feet.

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Line 18 Q Okay. In proximity to that torch, what direction were you facing when obviously you knew that there was a flash? I mean, were you facing away from it?

Line 21 A I was facing – the torch was here, behind me. I was facing like this.

Line 23 Q Okay, you were kinda sitting –

Line 24 A I was kinda standing at – like this at my desk.

Line 25 Q Okay. Now, did - and this is kinda of a strange

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Line 1 question. Did you hear it spark, did you feel it or did you see it, or did you all three of those?

Line 3 A Kind of all three.

Line 4 Q How big a fireball are we talking about? Did it make a fireball or did it just flash?

Line 6 A It – it was pretty flashy, like pretty quick.

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Line 10 Q Did the fire alarm go off, the smoke detectors, you know, the

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sprinkler system, did it activate?

- Line 12 A No.
- Line 13 Q Did anything in the area you were working on catch on fire?
- Line 15 A No.
- Line 16 Q Was there paper around?
- Line 17 A There was my papers on my desk, but, no, they didn't catch on fire.

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

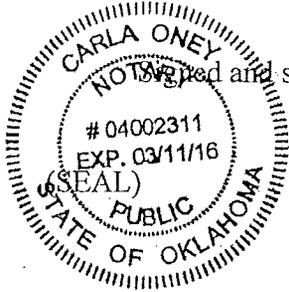
By: *Kristin M. Fulton*
KRISTIN M. FULTON, OBA #21185
Assistant Attorney General
907 S. Detroit Ave., Suite 750
Tulsa, OK 74135
(918) 581-2686

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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Subscribed 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
CompSource Oklahoma
1901 N. Walnut Ave.
Oklahoma City, OK 73152

Courtney Leach
CompSource Oklahoma
1901 N. Walnut Ave.
Oklahoma City, OK 73152

Bryan Aaron

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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.
9401 S. 54th St.
Tulsa, OK 74145

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

Joseph Keefer,
9401 E. 54th St.
Tulsa, OK 74145

Sgt. Jacob Thompson
Tulsa Police Department
600 Civic Center
Tulsa, OK 74103

Kenneth P. Duke
The Trust Company

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Amanda Marshall, RN
Brandon Brown, MD
Christopher Hunter, MD
Maria Fowler, RN
c/o Hillcrest Medical Center
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Tulsa, OK 74104

Randy Engleman, DO
Saint Francis Hospital
6161 S. Yale Ave.
Tulsa, OK 74136

Paul Shellabarger, MD
1732 Southwest Blvd.
Tulsa, OK 74107

Director of Medical Records
Hillcrest Medical Center
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Blake Whitten
PO Box 2875
Tulsa, OK 74101-2875

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SALLY HOWE SMITH, COURT CLERK
STATE OF OKLAHOMA, TULSA COUNTY

AFFIDAVIT OF PROBABLE CAUSE

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

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 Nathaniel McAlexander, DOB: 07/22/77. In the course of my investigation I obtained and reviewed various medical records, surveillance video, transcripts, written statements, Workers' Compensation Court files, as well as conducted witness interviews.

On November 19, 2011, between approximately 3:30 p.m. and midnight, McAlexander 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, McAlexander worked as a second shift lead hand or supervisor along with co-workers Joshua Duckworth, Andrew Ozias, and Jose Esparza Figuero who were also present.

On November 19, 2011, at approximately 10 p.m., Ozias, Duckworth, and McAlexander left L.E.F., Inc., and drove themselves to area hospitals seeking medical attention for burns. Ozias and Duckworth went to the Trauma Emergency Care Center at the Saint Francis Hospital in Tulsa, and McAlexander went to the Emergency Department at Hillcrest Medical Center in Tulsa. While at the Hillcrest Hospital, Dr. Christopher Hunter treated McAlexander for burns to his dorsal right hand and forearm. According to the medical history McAlexander provided directly to Maria Fowler, RN, McAlexander was at work and the cutting torch flame got bigger than expected and it burned his right hand and arm.

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 with 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 Ozias 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 Ozias 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.

Steve Nash also viewed the contents of McAlexander's employee locker at L.E.F., Inc. Inside McAlexander's employee locker, Nash found: fireworks, a golf ball containing a hole and fuse placed inside it, additional fuse, several balloons, and several plastic, hollow "practice" golf balls. In a subsequent interview with investigators from the Oklahoma Attorney General's office, McAlexander was shown pictures of the contents of his locker and identified the firecrackers, balloons, fuse, and plastic golf balls.

On December 12, 2011, the Defendant 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 to his right hand and right arm caused by "torch malfunction, flash fire", while working for said L.E.F., Inc.

Thereafter, on February 14, 2012, McAlexander 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, Ozias gave the following testimony in Workers' Compensation Court case, 2011-13552Q:

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Line 13 Q Did anything in the area you were working on catch on fire?

Line 15 A No.

Line 16 Q Was there paper around?

Line 17 A There was my papers on my desk, but, no, they didn't catch on fire.

This version of events testified to by McAlexander in Workers Compensation Court case, 2011-13552Q 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 Andrew Ozias committed the crimes 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 June, 2013, by
Carl Reed.

Angela R McAllen

Notary Public

(SEAL)

My Commission Expires: _____

