

No. 2023-7899

**Official Order
of the
Texas Commissioner of Insurance**

Date: 4/20/2023

Subjects Considered:

Jim Lee Zachary

[REDACTED]
Lubbock, Texas 79424

Cecil-Dunn Insurance Agency, Inc.

[REDACTED]
Lubbock, Texas 79412-1643

Default Order
SOAH Docket No. 454-23-14014
TDI Enforcement File Nos. 27508 and 29558

General remarks and official action taken:

This is a default order taken against Jim Lee Zachary (Zachary) and Cecil-Dunn Insurance Agency, Inc. (Cecil-Dunn Insurance), together the Respondents. Respondents engaged in the unauthorized business of insurance. Zachary also willfully violated an insurance law of this state, misappropriated insurance premiums, engaged in fraudulent and dishonest practices, and failed to respond to the department's inquiry. Respondents did not respond to a Notice of Hearing filed by the Texas Department of Insurance. This order revokes Zachary's licenses, orders the Respondents to cease and desist from engaging in the business of insurance in and from Texas, and orders the Respondents to jointly and severally make restitution to two victims in the total amount of \$212,857.78.

The following findings of fact and conclusions of law are adopted:

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Commissioner's Order

Jim Lee Zachary and Cecil-Dunn Insurance Agency, Inc.

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Findings of Fact

Failure to Respond to Notice of Hearing

1. On March 14, 2023, the department filed a Notice of Hearing, attached as Exhibit A, and on March 8, 2023, an Original Petition, attached as Exhibit B, with the State Office of Administrative Hearings.
2. The department's factual allegations set out in the attached Notice of Hearing and Original Petition are incorporated in this order as findings of fact.
3. The department sent the Notice of Hearing and Original Petition to Zachary's last known address provided in writing to the department, [REDACTED], Lubbock, Texas 79424. The Notice of Hearing and Original Petition were also sent by electronic mail and to one additional address associated with Zachary: [REDACTED], Big Spring, Texas 79720.
4. The department sent the Notice of Hearing and Original Petition to Cecil-Dunn Insurance's last known address provided in writing to the department, [REDACTED] Lubbock, Texas 79412-1643.
5. Respondents failed to file a written response to the Notice of Hearing within 20 days of the date the Notice of Hearing and Original Petition were mailed.

Conclusions of Law

1. The commissioner has jurisdiction under Texas law, including TEX. INS. CODE §§ 82.051-82.055, 84.021-84.044, 101.101-101.103, 101.151-101.156, 4001.002, 4005.101-4005.102, 4005.107, 4051.051, and 4054.051; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has authority to dispose of this case informally under TEX. GOV'T CODE § 2001.056; TEX. INS. CODE § 82.055; and 28 TEX. ADMIN. CODE §§ 1.47, 1.88, and 1.89.
3. The department provided proper notice of the hearing under TEX. GOV'T CODE §§ 2001.051, 2001.052, and 2001.054; and 28 TEX. ADMIN. CODE §§ 1.28, 1.88, 1.89, and 19.906.

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4. Based on Respondents' failure to file a written response to the Notice of Hearing, the department is entitled to disposition by default under 28 TEX. ADMIN. CODE §§ 1.88 and 1.89.
5. The department's factual and legal allegations set out in the attached Notice of Hearing and Original Petition are incorporated in this order and deemed admitted as true under 28 TEX. ADMIN. CODE § 1.89.

Order

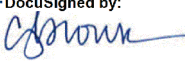
It is ordered that any licenses held by Jim Lee Zachary are revoked.

It is further ordered that Jim Lee Zachary and Cecil-Dunn Insurance Agency, Inc. must cease and desist from engaging in the business of insurance in and from Texas.

It is further ordered that Jim Lee Zachary and Cecil-Dunn Insurance Agency, Inc. jointly and severally make restitution under TEX. INS. CODE §§ 82.053 and 101.103, to:

- a. B.C. in the amount of \$100,000; and
- b. 3 R & P Properties, LLC in the amount of \$112,857.78.

Proof of payment of the restitution must be sent electronically to the department within 30 days of the date of this order to EnforcementReports@tdi.texas.gov. A copy of this order will be provided to law enforcement and other appropriate administrative agencies for further investigation as may be warranted.

DocuSigned by:

FC5D7EDDFB4F8...

Cassie Brown

Commissioner of Insurance

Prepared and reviewed by:



Sarah White, Staff Attorney
Enforcement

2023-7899

Commissioner's Order

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Affidavit

STATE OF TEXAS §

§

COUNTY OF TRAVIS §

Before me, the undersigned authority, personally appeared David Moreno, who, being by me duly sworn, deposed as follows:

"My name is David Moreno and I am employed by the Texas Department of Insurance. I am of sound mind, capable of making this affidavit, and have personal knowledge of these facts which are true and correct.

I have reviewed TDI's records concerning Jim Lee Zachary and Cecil-Dunn Insurance Agency, Inc. I have confirmed that:

- a. The last mailing address provided to the department in writing by Jim Lee Zachary is [REDACTED], Lubbock, Texas 79424.
- b. The last mailing address provided to the department in writing by Cecil-Dunn Insurance Agency, Inc. is [REDACTED], Lubbock, Texas 79412-1643.
- c. The file maintained by Enforcement contains a Notice of Hearing dated March 14, 2023, and Original Petition dated March 8, 2023, which were filed together on March 14, 2023, with the State Office of Administrative Hearings.
- d. On March 14, 2023, the Notice of Hearing and Original Petition addressed to Jim Lee Zachary was mailed first-class and certified, return receipt requested, to his last known address and one additional address: [REDACTED], Big Spring, Texas 79720.
- e. On March 14, 2023, the Notice of Hearing and Original Petition addressed to Cecil-Dunn Insurance Agency, Inc. was mailed first-class and certified, return receipt requested, to its last known address at [REDACTED], Lubbock, Texas 79412-1643.

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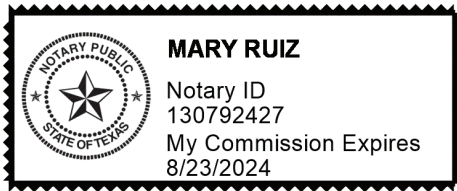
Copies of the first-class mail log and certified mail log maintained by Enforcement are attached as Exhibit C and Exhibit D, respectively."

DocuSigned by:
David Moreno
B8B60223B29F475...

Affiant

SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 4/12/2023. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:
Mary Ruiz
795DC4D59167489...

Notary Public State of Texas

ACCEPTED **2023-7899**
454-23-14014
3/14/2023 9:48:44 am
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Kevin Garza, CLERK

FILED
454-23-14014
3/14/2023 9:47 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Kevin Garza, CLERK

**SOAH DOCKET NO. 454-23-14014
TDI ENFORCEMENT FILE NOS. 27508 and 29558**

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

**JIM LEE ZACHARY AND CECIL-DUNN
INSURANCE AGENCY, INC.**

ADMINISTRATIVE HEARINGS

Respondents

NOTICE OF HEARING

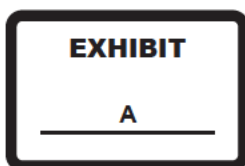
The Texas Department of Insurance (Department) seeks to take disciplinary action against you. This Notice of Hearing and the Original Petition, which is attached and incorporated for all purposes, states the allegations against you and the relief sought by the Department.

A public hearing will be held before an Administrative Law Judge on **Tuesday, August 1, 2023, at 9:00 a.m.** The hearing will take place via videoconference using a videoconference platform controlled by the State Office of Administrative Hearings, unless otherwise ordered to proceed in another manner by the Administrative Law Judge.

The hearing shall be conducted under TEX. GOV'T CODE, ch. 2001 and 1 TEX. ADMIN. CODE, ch. 155. Unless otherwise directed by the Administrative Law Judge, the hearing shall continue from day to day in the offices of the State Office of Administrative Hearings until concluded. You have the right to appear at this hearing and to be represented by an attorney.

Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH.

YOU MUST FILE A WRITTEN RESPONSE TO THE NOTICE OF HEARING WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN 20 DAYS OF THE DATE THE NOTICE OF HEARING WAS MAILED. FAILURE TO FILE A WRITTEN RESPONSE BY



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THIS DEADLINE SHALL ENTITLE TDI TO SEEK DISPOSITION BY DEFAULT UNDER 1 TEX. ADMIN. CODE § 155.501 AND 28 TEX. ADMIN. CODE §§ 1.88 AND 1.89.

IF YOU FAIL TO FILE A WRITTEN RESPONSE, THE SCHEDULED HEARING CAN BE CANCELED AND WITHOUT FURTHER NOTICE TO YOU THE COMMISSIONER OF INSURANCE CAN ISSUE AN ORDER IN WHICH THE ALLEGATIONS IN THE NOTICE OF HEARING ARE DEEMED ADMITTED AS TRUE AND THE RELIEF SOUGHT IN THE NOTICE OF HEARING, INCLUDING REVOCATION OF YOUR LICENSES, ISSUANCE OF A CEASE AND DESIST ORDER, IMPOSITION OF ADMINISTRATIVE PENALTIES, AND/OR PAYMENT OF RESTITUTION, IS GRANTED BY DEFAULT.

IF YOU FILE A WRITTEN RESPONSE BUT THEN FAIL TO APPEAR ON THE DAY AND TIME SET FOR HEARING, WITHOUT FURTHER NOTICE TO YOU, THE COMMISSIONER OF INSURANCE CAN ISSUE AN ORDER IN WHICH THE ALLEGATIONS IN THE NOTICE OF HEARING ARE DEEMED ADMITTED AS TRUE AND THE RELIEF SOUGHT IN THE NOTICE OF HEARING, INCLUDING REVOCATION OF YOUR LICENSE, ISSUANCE OF A CEASE AND DESIST ORDER, IMPOSITION OF ADMINISTRATIVE PENALTIES, AND/OR PAYMENT OF RESTITUTION, IS GRANTED BY DEFAULT.

In accord with 28 TEX. ADMIN. CODE § 1.90(e) and 1 TEX. ADMIN. CODE §§ 155.101 and 155.103, you should send copies of your written response to:

- (1) *(by mail, fax, or electronically)*
Docketing Division
State Office of Administrative Hearings
300 West 15th Street, Room 504
P.O. Box 13025
Austin, Texas 78711-3025
(512) 322-2061 (Fax);
www.soah.texas.gov

- (2) *(by mail, fax, or email)*
Chief Clerk
Texas Department of Insurance
P.O. Box 12030, MC GC-CCO
Austin, Texas 78711-2030
(512) 490-1064 (Fax)
chiefclerk@tdi.texas.gov; and

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- (3) *(by mail, fax, or email)*
Sarah White, Staff Attorney
Texas Department of Insurance
Enforcement, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 490-1020 (Fax)
Sarah.white@tdi.texas.gov

Receiving Documents Electronically and Filing Documents with SOAH

The State Office of Administrative Hearings (SOAH) offers you the ability to electronically receive orders and other documents issued by SOAH by email instead of by mail. If you want to receive SOAH-issued documents by email, follow the instructions on SOAH's website: www.soah.texas.gov.

A request to receive SOAH-issued documents by email does not change the procedures you must follow to file documents or exhibits with SOAH. Instructions on how to file documents and exhibits are on SOAH's website. SOAH's website also includes guidance for representing yourself.

Important Security Notice (for In-Person Hearings ONLY)

ALL VISITORS TO THE WILLIAM P. CLEMENTS BUILDING WITHOUT AN AGENCY OR DPS ISSUED ID CARD MUST PROVIDE THE BUILDING SECURITY OFFICER WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS DOCKET NUMBER AND RECEIVE A VISITOR'S PASS IN ORDER TO BE ALLOWED ACCESS TO THE HEARING ROOM. INDIVIDUALS SHOULD ALLOW ADDITIONAL TIME TO GO THROUGH THE SECURITY PROCESS.

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If you have any questions, please contact me at the address or telephone number shown below.

Respectfully Submitted,



Sarah White

State Bar No. 24064622

Texas Department of Insurance

Enforcement, MC ENF

P.O. Box 12030

Austin, Texas 78711-2030

(512) 676-6354 (Direct)

(512) 490-1020 (Fax)

Sarah.white@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

cc: Leah Gillum, Deputy Commissioner, Fraud and Enforcement Division, MC ENF
Rachel Cloyd, Litigation Director, Enforcement, MC ENF
Administrative Review, MC CO-AAL

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CERTIFICATE OF SERVICE

I, Sarah White, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by regular, first-class mail, by certified mail, return receipt requested, and email on this 14th day of March, 2023 to:

Jim Lee Zachary
[REDACTED]
Lubbock, Texas 79424

Via CM/RRR No.: 9214 8901 9403 8307 0031 88
Via First Class Mail
Via Email: [REDACTED]

[REDACTED]
Big Spring, Texas 79720

VIA CM/RRR No.: 9214 8901 9403 8307 0034 23
VIA First Class Mail

Cecil-Dunn Insurance Agency, Inc.
[REDACTED]
Lubbock, Texas 79412-1643

VIA CM/RRR No.: 9214 8901 9403 8307 0039 66
VIA First Class Mail

Respondents Pro Se



Sarah White

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ACCEPTED
454-23-14014
3/8/2023 11:06:10 am
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
April Bermea , CLERK

FILED
454-23-14014
3/8/2023 10:38 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
April Bermea , CLERK

SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NOS. 27508 and 29558

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

**JIM LEE ZACHARY AND CECIL-DUNN
INSURANCE AGENCY, INC.**

ADMINISTRATIVE HEARINGS

Respondents

ORIGINAL PETITION

The Texas Department of Insurance (TDI) seeks to take disciplinary action against Jim Lee Zachary and Cecil-Dunn Insurance Agency, Inc. In support of this petition, TDI makes the following allegations upon information and belief:

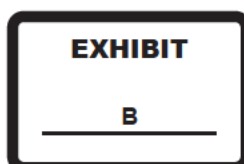
Jurisdiction

The Commissioner of Insurance has jurisdiction over this matter under TEX. INS. CODE §§ 82.051-82.055, 84.021-84.044, 101.101-101.103, 101.151-101.156, 4001.002, 4005.101, 4005.102, 4005.107, 4051.051, and 4054.051; and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

Controlling and Operating Parties of an Unauthorized Insurance Agency

1. Jim Lee Zachary (Zachary), individual identification number 52839, holds a general lines agent license with a life, accident, health and HMO qualification issued by TDI on January 9, 1979, and a property and casualty qualification issued by TDI on March 28, 1997. Zachary's general lines license expired on January 31, 2023. However, he still has 90 days within which he may still choose to renew it under TEX. INS. CODE § 4003.007.
2. Zachary formerly held a non-resident solicitor license, issued by TDI on August 5, 1988, and which was canceled on March 28, 1997.



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3. James Frank Dunn Jr. (Dunn), individual identification number 24621, held a general lines agent license with both a life, accident, health and HMO qualification and a property and casualty qualification issued by TDI likely in the early 1970s.¹ TDI's records show that Dunn had active appointments with Texas insurers dating back to 1973. Dunn passed away on August 27, 2022, at the age of 86 and his license has been canceled as of the date of his death.
4. Jennifer Clark (Clark), individual identification number 607123, formerly held a general lines license with a property and casualty qualification, issued by TDI on November 2, 2004, and which expired on February 29, 2020, due to her failure to renew it.
5. While Dunn was alive, Zachary and Dunn conducted insurance business together using the corporation and under the name "Cecil-Dunn Insurance Agency, Inc." (Cecil-Dunn Insurance).
6. Upon information and belief, after Dunn's death, Zachary continues to conduct insurance business using the corporation and under the name Cecil-Dunn Insurance.
7. Texas Secretary of State (SOS) records show that Cecil-Dunn Insurance is a Texas-domiciled business organization with an active franchise tax status.
8. According to TDI records, Cecil-Dunn Insurance holds no license or authorization to engage in the business of insurance as a corporation in Texas. Moreover, Cecil-Dunn Insurance is not excepted or exempt from corporate licensure or authorization.
9. SOS records show that Dunn alone incorporated Cecil-Dunn Insurance in 1979, and therefore Cecil-Dunn Insurance has potentially engaged in the unauthorized business from the date of incorporation to the date of this petition, for over 40 years.²

¹ According to TDI's electronic record-keeping system, Dunn's licenses were issued on January 1, 1920. However, TDI's system shows this date in unusual circumstances associated with licensing records that are extremely old, were in paper, and which have been destroyed.

² For more than 40 years, corporations engaged in the business of insurance as agents have been required to hold an agent license. H.B. 712, 65th Leg. R.S. (1977) amended former Art. 21.07(a) § 2 to add "or corporation." This former article was recodified at TEX. INS. CODE § 4001.106.

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10. SOS records also show that Dunn was the director and CEO of Cecil-Dunn Insurance from 1979 to the present, and that since at least 2014, Zachary and Clark have been officers or directors of the corporation, with Zachary serving as its president and Clark as its vice president.
11. Both Dunn and Cecil-Dunn Insurance have had the same mailing address in Lubbock, Texas.
12. Based on this information, while Dunn was alive, Cecil-Dunn Insurance, an unlicensed agency, was controlled by Dunn and Zachary, who are licensed, as well as Clark, who does not hold an insurance license.³ After Dunn's death, Cecil-Dunn continues to be controlled by Zachary and Clark.

Dunn's Representations to TDI Regarding the Ownership of Cecil-Dunn Insurance

13. Upon receipt of complaints, TDI began investigating Zachary and Cecil-Dunn Insurance.
14. During the investigation, Dunn informed TDI that he "allows" Zachary to handle emails sent to this designated email address with TDI. According to TDI records, both Zachary's and Dunn's designated email address on file with TDI is: [REDACTED].
15. TDI was aware of a separate email address for Dunn, and had communicated with Dunn via that direct email address: [REDACTED]. However, Dunn did not designate this email address as his own with TDI. Dunn further continued until his death, to designate Zachary's email address as his own, when it is obviously not his own.
16. Prior to his death and during the investigation, Dunn represented to TDI that he "sold" Cecil-Dunn Insurance to Zachary, however he informed TDI that there was no official sale and no transfer of ownership. Dunn did not give TDI any documentation to support his representations.

³ If Cecil-Dunn Insurance was a licensed corporation, it would be required to provide TDI with biographical information listing all individuals who control the corporation, as required by TEX. INS. CODE §§ 4001.106(b)(7) and 4001.252(b) and (c).

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17. Later, Dunn contradicted his representations about selling Cecil-Dunn Insurance to Zachary by informing TDI that he did not sell Cecil-Dunn Insurance to Zachary but that he told Zachary and Clark that they would become partial owners upon Dunn's retirement. Dunn maintained that there was no transfer of ownership and admitted that he was the owner of Cecil-Dunn Insurance, at that time.
18. Therefore, upon information and belief, and Dunn's statements to TDI, Dunn was the owner, and his estate continues to be the owner of Cecil-Dunn Insurance, but Dunn also allowed Zachary and Clark to control, direct, and otherwise handle the corporation's business.
19. If Cecil-Dunn Insurance held a license, it would have been required to provide to TDI all information described in TEX. INS. CODE §§ 4001.106(b) and to continually and timely report the following information to TDI, among other information:
 - a. biographical information for each executive officer, director, or unlicensed partner who administers operations and any addition or removal of an officer, director, partner, member, or manager pursuant to TEX. INS. CODE §§ 4001.252(b)-(c); and
 - b. would have had to seek approval from TDI for any person to acquire any ownership interest in the entity or to exercise any control of the entity, pursuant TEX. INS. CODE § 4001.253.
20. The failure of the persons controlling Cecil-Dunn Insurance to seek and obtain a corporate license for the corporation means that they allowed and assisted it to unlawfully engage in the business of insurance without the regulation and oversight of TDI for more than 40 years, thereby leaving TDI in the dark about its operations and the people controlling it.

Zachary's Misappropriation and Cecil-Dunn Insurance's Unauthorized Acts

21. Upon information and belief, Cecil-Dunn Insurance has a bank account in Texas within which Zachary or Dunn has deposited premiums from Texas consumers.
22. Cecil-Dunn Insurance accepted insurance premiums, failed to remit those premiums to insurers, and has engaged in other acts of the business of insurance, without a license or authorization from TDI.

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23. Zachary, Dunn, and Clark have directly or indirectly assisted Cecil-Dunn Insurance in engaging in the unauthorized business of insurance.
24. Zachary accepted insurance premiums from multiple Texas insureds, sometimes deposited those funds into Cecil-Dunn Insurance's bank account, and failed to remit those premiums to insurers.

Misappropriation and Failure to Remit Premiums

Insured B.C.

25. B.C. paid Zachary to renew his real estate owners commercial package policy with Capitol Specialty Insurance Corporation (CSIC).
26. On December 21, 2018, Zachary emailed B.C. to invoice him for the renewal amount of \$10,794 for his insurance policy, and instructed B.C. to make the check payable to Cecil-Dunn Insurance.
27. On January 15, 2019, B.C. paid Cecil-Dunn Insurance \$10,794 for his 2019 insurance policy. The check was endorsed by the unlicensed entity, Cecil-Dunn Insurance.
28. On January 13, 2020, B.C. paid Cecil-Dunn Insurance \$9,944 for his 2020 insurance policy. The check was endorsed by the unlicensed entity, Cecil-Dunn Insurance.
29. Zachary, Dunn, and Cecil-Dunn Insurance failed to remit all of B.C.'s premiums to the insurer, CSIC, or its agent.
30. CSIC canceled B.C.'s policy for non-payment of premium, effective March 4, 2019.
31. B.C. never received a notice of cancellation.
32. On May 20, 2020, six properties B.C. insured with CSIC sustained hail damage.
33. B.C. reported his claim to CSIC on June 11, 2021.
34. CSIC informed B.C. that his claim was not covered because his policy had been canceled for non-payment prior to the date of loss.

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35. B.C. estimates that the damages to the properties he paid Zachary and Cecil-Dunn Insurance to insure, total approximately \$100,000.
36. On June 29, 2021, B.C.'s attorney sent Zachary a letter to confirm Zachary's statements that he was personally responsible for making B.C. whole due to his failure to forward the premiums to the insurer, and that he would gather funds to compensate B.C.'s loss of at least \$100,000. Zachary signed the letter, admitting and agreeing that those were accurate facts.

Insured N.P.

37. On January 28, 2020, N.P. paid Zachary and Cecil-Dunn Insurance \$4,761.75 to renew a commercial property policy with Scottsdale Insurance Company, effective February 1, 2020, through February 1, 2021.
38. Zachary, through Cecil-Dunn Insurance, failed to forward N.P.'s premiums to the insurer and on May 6, 2020, N.P.'s policy was canceled for non-payment of premiums.
39. Despite paying in full for an entire year, N.P. received only three months of coverage.
40. N.P. attempted to contact Zachary in order to get the policy reinstated, but Zachary failed to do so or explain what happened to the rest of N.P.'s premium.
41. On June 19 and 20, 2020, N.P.'s property sustained hail damage. N.P. was unable to seek indemnification for the loss because the policy had been canceled since Zachary and Cecil-Dunn Insurance did not remit the premiums paid.
42. N.P. filed a complaint with TDI and in response to TDI, Zachary admitted that Cecil-Dunn Insurance did not pay the general agent for N.P.'s policy and that the policy had canceled.
43. After N.P. sustained hailstorm damage and after N.P. filed the complaint with TDI, Zachary refunded N.P. a pro rata amount of the premiums allocated for the period when N.P. had no coverage. Zachary did not pay N.P. for the hailstorm damage to the property.

3 R & P Properties, LLC

44. On January 23, 2020, 3 R & P Properties, LLC (3 R & P) paid Cecil-Dunn Insurance \$4,485.60 for a commercial property and general liability policy with Scottsdale Insurance Company (Scottsdale), effective January 21, 2020, through January 21, 2021.
45. Zachary provided 3 R & P a receipt for that payment on the same day.
46. In May 2020, two of 3 R & P's properties sustained damage due to hail and wind and it filed a claim for its loss. Zachary and 3 R & P's owner inspected the properties and Zachary represented to the owner that both claims were processing with the insurer. The total damage amount was approximately \$133,702.78.
47. After 3 R & P thought there was a delay in processing its claim, 3 R & P contacted Scottsdale and discovered that its policy had been canceled for non-payment, effective May 6, 2020, before the hail and windstorm damage occurred.
48. Because the policy had been canceled due to non-payment, the loss occurred outside the coverage period and 3 R & P's claim of loss was not covered.
49. On April 5, 2021, Zachary submitted a loss notice to his Errors and Omissions (E&O) insurer, Kinsale Insurance (Kinsale), detailing a claim for 3 R & P. Zachary admitted in his claim that 3 R & P paid in full for the policy, and that Zachary had failed to timely pay Ryan Specialty Group, LLC, the general agent causing the policy to be canceled for non-payment. Zachary's E&O claim also admitted that hail damage had occurred in May 2020, after the policy was cancelled.
50. Kinsale denied Zachary's E&O claim.
51. Zachary partially compensated 3 R & P for its loss by paying it \$16,590 on September 14, 2020, and \$4,255 on October 12, 2021, for a total of \$20,845.00.
52. On December 10, 2021, 3 R & P's attorney demanded that Zachary pay for the remainder of his loss, totaling \$112,857.78.

Failure to Respond

53. On July 13, 2022, TDI sent Zachary a request for information regarding the above allegations. TDI sent the request to Zachary electronically, by first class mail, and by certified mail, return receipt requested, to the mailing address on record with TDI, in addition to a second address. This request for information was also sent to Cecil-Dunn Insurance via first class and certified mail at its known addresses.
54. Postal records show that Zachary received the request.
55. As of the date of this petition, Zachary has not provided a response to TDI's July 2022 request for information.
56. Zachary failed to respond to TDI's request for information.

Legal Allegations

1. TEX. INS. CODE § 4001.106 requires a corporation to hold an insurance license in order to engage in the business of insurance in Texas.
2. Cecil-Dunn Insurance is a corporation and does not hold a license or authorization to perform the acts of an agent or to otherwise engage in the business of insurance, as those terms are defined in TEX. INS. CODE §§ 101.051, 4001.003(1), and 4001.051.
3. Cecil-Dunn Insurance is not exempt or excepted from licensure.
4. Cecil-Dunn Insurance engaged in the acts of an agent and otherwise engaged in acts that constitute the business of insurance in Texas, in violation of TEX. INS. CODE §§ 101.102(a), 4001.051, 4001.101, 4051.051, and 4054.051.
5. Zachary, as an officer or director of Cecil-Dunn Insurance partially controls Cecil-Dunn Insurance, within the meaning of TEX. INS. CODE § 4001.003(2)(A), and failed to obtain a corporate agent license for Cecil-Dunn Insurance as required by TEX. INS. CODE § 4001.106.
6. Zachary assisted both Cecil-Dunn Insurance and Clark, an officer or director of Cecil-Dunn Insurance, with engaging in the unauthorized business of insurance, as

that term is defined in TEX. INS. CODE § 101.051, and in violation of TEX. INS. CODE § 101.102(a).

7. Zachary committed acts for which a license holder may be disciplined under TEX. INS. CODE § 4005.101, as contemplated in TEX. INS. CODE § 4005.102. Specifically, he:
 - a. willfully violated an insurance law of this state, as contemplated in TEX. INS. CODE § 4005.101(b)(1);
 - b. misappropriated, converted to his own use, or illegally withheld money belonging to an insured, insurer, or beneficiary, in violation of TEX. INS. CODE § 4005.101(b)(4);
 - c. engaged in fraudulent or dishonest acts or practices, in violation of TEX. INS. CODE § 4005.101(b)(5).
8. Zachary violated TEX. INS. CODE § 38.001 by failing to respond in writing to TDI's inquiry not later than the 15th day after the date the inquiry was received.

Relief Sought

If one or more of the above allegations is found to be true, TDI asks the Administrative Law Judge to enter a Proposal for Decision recommending that the Commissioner of Insurance issue an order:

1. revoking all licenses held by Jim Lee Zachary;
2. ordering Jim Lee Zachary and Cecil-Dunn Insurance Agency, Inc. to cease and desist from engaging in the business of insurance in and from Texas, as the business is defined in TEX. INS. CODE § 101.051;
3. directing Jim Lee Zachary and Cecil-Dunn Insurance Agency, Inc. to jointly and severally pay an administrative penalty, under TEX. INS. CODE §§ 84.021 – 84.022 and 101.103; and,
4. directing Jim Lee Zachary and Cecil-Dunn Insurance Agency, Inc. to jointly and severally make restitution under TEX. INS. CODE §§ 82.053 and 101.103, to:
 - a. B.C. in the amount of \$100,000; and,
 - b. 3 R & P Properties, LLC in the amount of \$112,857.78; and,
5. imposing any other just and appropriate relief to which TDI may be entitled to by law, including any combination of the above actions.

2023-7899

Original Petition

Jim Lee Zachary and Cecil-Dunn Insurance Agency, Inc.

Page 10 of 10

Respectfully Submitted,

A handwritten signature in black ink that reads "Sarah White". The signature is written in a cursive style with a horizontal line underneath it.

Sarah White

State Bar No. 24064622

Texas Department of Insurance

Enforcement, MC ENF

P.O. Box 12030

Austin, Texas 78711-2030

(512) 676-6354 (Direct)

(512) 490-1020 (Fax)

Sarah.white@tdi.texas.gov

ATTORNEY FOR THE PETITIONER

TEXAS DEPARTMENT OF INSURANCE

2023-7899

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Mary Ruiz on behalf of Sarah White
Bar No. 24064622
Enforcementgeneral@tdi.texas.gov
Envelope ID: 73453806
Status as of 3/8/2023 11:12 AM CST

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	3/8/2023 10:38:36 AM	SENT

Associated Case Party: Texas Department of Insurance

Name	BarNumber	Email	TimestampSubmitted	Status
Sarah White		Sarah.White@tdi.texas.gov	3/8/2023 10:38:36 AM	SENT
Rachel Cloyd		Rachel.Cloyd@tdi.texas.gov	3/8/2023 10:38:36 AM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	3/8/2023 10:38:36 AM	SENT

Associated Case Party: Jim Lee Zachary

Name	BarNumber	Email	TimestampSubmitted	Status
Jim Lee Zachary		[REDACTED]	3/8/2023 10:38:36 AM	SENT

2023-7899

Automated Certificate of eService

This automated certificate of service was created by the e filing system. The filer served this document via email generated by the e filing system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Mary Ruiz on behalf of Sarah White
Bar No. 24064622
Enforcementgeneral@tdi.texas.gov
Envelope ID: 73630420
Filing Code Description: Notice of Hearing
Filing Description: Notice of hearing and original petition
Status as of 3/14/2023 9:49 AM CST

Associated Case Party: Texas Department of Insurance

Name	BarNumber	Email	TimestampSubmitted	Status
Rachel Cloyd		Rachel.Cloyd@tdi.texas.gov	3/14/2023 9:47:20 AM	SENT
Sarah White		Sarah.White@tdi.texas.gov	3/14/2023 9:47:20 AM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	3/14/2023 9:47:20 AM	SENT
Leah Gillum		Leah.Gillum@tdi.texas.gov	3/14/2023 9:47:20 AM	SENT
Catarina Tapia		Catarina.Tapia@tdi.texas.gov	3/14/2023 9:47:20 AM	SENT

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	3/14/2023 9:47:20 AM	SENT

Associated Case Party: Jim Lee Zachary

Name	BarNumber	Email	TimestampSubmitted	Status
Jim Lee Zachary		[REDACTED]	3/14/2023 9:47:20 AM	SENT

Firm Mailing Book For Accountable Mail

Name and Address of Sender
 Texas Dept of Insurance
 Mail Code ENF
 1601 Congress Avenue, Suite 6.900
 Austin TX 78711
 Mary Ruiz
 March 14, 2023

Check type of mail or service
 Adult Signature Required
 Adult Signature Restricted Delivery
 Certified Mail
 Certified Mail Restricted Delivery
 Collect on Delivery (COD)
 Insured Mail
 Priority Mail
 Priority Mail Express
 Registered Mail
 Return Receipt for Merchandise
 Signature Confirmation
 Signature Confirmation Restricted Delivery

Affix Stamp Here
 (if issued as an international certificate of
 mailing or for additional copies of this
 receipt). Postmark with
 Date of Receipt

USPS Tracking/Article Number	Address (Name, Street, City, State, & Zip Code)	Postage	Extra Service Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	ASR Fee	ASRD Fee	RD Fee	RR Fee	SC Fee	SCP Fee	SH Fee
WHITE/27508	JIM LEE ZACHARY LUBBOCK, TEXAS 79424	1.70		90 in value										
and 29558	JIM LEE ZACHARY BIG SPRING, TEXAS 79720	1.70												
	CELI-DUNN INSURANCE AGENCY, INC. LUBBOCK, TEXAS 79412-1643	1.70												
				Handling Charge				Adult Signature Required	Adult Signature Restricted Delivery	Registered Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling

US POSTAGE \$001.629
 03/14/2023
 ZIP 78701
 041M12252405

OFFICIAL BUSINESS
 STATE OF TEXAS
 PENALTY FOR PRIVATE USE

RECEIVED
 MAR 15 2023
 TDI - ENFORCEMENT

EXHIBIT
 C

Shipment Confirmation
Acceptance Notice



A. Mailer Action

Note to Mailer: The labels and volume associated to this form online, must match the labeled packages being presented to the USPS® employee with this form.

Shipment Date: 03/14/2023
Shipped From:
Name: MC ENF M RUIZ
Address: 1601 CONGRESS AVENUE SUITE 6 900
City: AUSTIN
State: TX ZIP+4® 78711

Type of Mail	Volume
Priority Mail Express®	
Priority Mail®	0
First-Class Package Service®	
Returns	
International*	
Other	3
Total	3

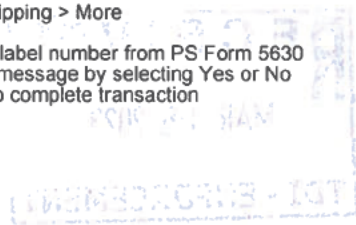
*Start time for products with service guarantees will begin when mail arrives at the local Post Office™ and items receive individual processing and acceptance scans.

B. USPS Action

Note to RSS Clerk:

1. Home screen > Mailing/Shipping > More
2. Select Shipment Confirm
3. Scan or enter the barcode/label number from PS Form 5630
4. Confirm the volume count message by selecting Yes or No
5. Select Pay and End Visit to complete transaction

USPS EMPLOYEE: Please scan upon pickup or receipt of mail.
Leave form with customer or in customer's mail receptacle.



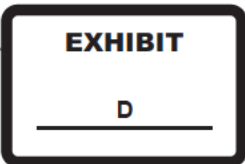
USPS SCAN AT ACCEPTANCE



9275 0901 1935 6200 0043 0097 48



WHITE/ 27508 and 29558





Firm Mailing Book For Accountable Mail

2023-7899

Name and Address of Sender

MC ENF M RUIZ
TEXAS DEPARTMENT OF INSURANCE
1601 CONGRESS AVENUE, SUITE 6.900
AUSTIN TX 78711

Check type of mail or service

- Adult Signature Required
- Adult Signature Restricted Delivery
- Certified Mail
- Certified Mail Restricted Delivery
- Collect on Delivery (COD)
- Insured Mail
- Priority Mail
- Priority Mail Express
- Registered Mail
- Return Receipt for Merchandise
- Signature Confirmation
- Signature Confirmation Restricted Delivery

USPS Tracking/Article Number

9214 8901 9403 8307 0031 88

WHITE/ 27508 and 29558

9214 8901 9403 8307 0034 23

9214 8901 9403 8307 0039 66

Addressee (Name, Street, City, State, & ZIP Code™)

JIM LEE ZACHARY
[REDACTED]
LUBBOCK, TEXAS 79424

JIM LEE ZACHARY
[REDACTED]
BIG SPRING, TEXAS 79720

CECIL-DUNN INSURANCE AGENCY, INC.
[REDACTED]
LUBBOCK, TEXAS 79412-1643

Affix Stamp Here
(for additional copies of this receipt).
Postmark with Date of Receipt.

Postage	(Extra Service) Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	ASR Fee	ASRD Fee	RD Fee	RR Fee	SC Fee	SCRD Fee	SH Fee
2.22	4.15	Handling Charge - If Registered and over \$50,000 in value							2.10			
2.22	4.15								2.10			
2.22	4.15					Adult Signatures Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling

RECEIVED
MAR 15 2023
TDI - ENFORCEMENT

Total Number of Pieces
Listed by Sender
3

Postmaster, Per (Name of receiving employee)

[Signature]