

No. 2023-8023

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

Date: 6/16/2023

Subject Considered:

Swyfft, LLC
44 Headquarters Plz. Fl. 4
Morristown, New Jersey 07960-3964

Richard Daniel Trezza
[REDACTED]
Far Hills, New Jersey 07931-2617

Consent Order
TDI Enforcement File Nos. 29708 and 30157

General remarks and official action taken:

This is a consent order with Swyfft, LLC (Swyfft) and Richard Daniel Trezza (Trezza). Swyfft has acted outside the scope of its general lines agency license for six years by acting as both a managing general agent (MGA) for two Texas insurers, and as an adjuster on Texas claims for those insurers, without holding either license. This order grants Swyfft's and Trezza's MGA license applications subject to a two-year probated suspension and the reporting requirements detailed in this order. Swyfft and Trezza also agree to jointly and severally pay an administrative penalty of \$55,000.

Waiver

Swyfft and Trezza acknowledge that the Texas Insurance Code and other applicable law provide certain rights. Swyfft and Trezza waive all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

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Findings of Fact

License Background

1. Under firm identification number 128510, Swyfft holds a general lines agency license with a property and casualty qualification, and a personal lines property and casualty agency license, both of which were issued by the department on January 31, 2017. Swyfft also holds a surplus lines agency license issued by the department on August 7, 2018.
2. Trezza is the designated responsible licensed person (DRLP) for Swyfft.
3. Under individual identification number 490527, Trezza holds a general lines agent license with a property and casualty qualification issued by the department on April 17, 2002. Trezza also holds a surplus lines agent license issued by the department on July 6, 2007.
4. According to department records, Trezza, Sean Maher, and One Click Partners, LLC each own a 33% membership interests in Swyfft, and are equal co-owners. This equal ownership appears to be an inadvertent mistake because it neither accounts for nor identifies who owns the other one percent of Swyfft. Neither Sean Maher nor One Click Partners, LLC holds a license with the department.
5. On December 21, 2022, Swyfft submitted a FIN531 to the department seeking approval of a change to Swyfft's controlling owners. The filing was attested to by Trezza and identified and reported changes to its ownership.
6. The filing was approved by the department on December 22, 2022.

Swyfft Engaged in Unauthorized Acts

7. In 2021, the department conducted a market conduct examination of Clear Blue Insurance Company (Clear Blue). During the examination, the department discovered that Swyfft was acting as both an MGA and an adjuster for Clear Blue.
8. Swyfft and Clear Blue entered into a contract in 2017 in which Clear Blue gave Swyfft authority to underwrite policies, issue policies, and process cancellations. In 2019, that contract was amended to allow Swyfft to process claims.

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9. According to Swyfft, it began adjusting claims for Clear Blue in Texas in November 2019.
10. During the department's enforcement investigation, the department learned that Swyfft also entered into a contract with another insurer, Benchmark Insurance Company (Benchmark), authorizing Swyfft to act as its MGA.
11. Swyfft has acted as an MGA for Benchmark since July 1, 2020.
12. Swyfft does not hold an MGA or an adjuster license in Texas and is not exempt from either licensure.
13. Swyfft represents it operates in other states and some of those states do not require an MGA license for the activities Swyfft performs on behalf of Clear Blue and Benchmark.

MGA Applications

14. On February 3, 2022, Swyfft submitted an application for an MGA license with a property and casualty qualification, application identification number 2573149. Swyfft's license application is being resolved through this consent order.
15. On February 3, 2022, the department notified Swyfft of a deficiency, that its application could not be processed because Swyfft's DRLP must have an active MGA license with a property and casualty qualification for Swyfft to qualify for a MGA license.
16. Swyfft's MGA application listed Trezza as its DRLP, who lacks the required type of licensure required for an MGA to qualify for licensure.
17. On May 19, 2022, Trezza submitted to the department an application for an MGA license with a property and casualty qualification, application identification number 2661376.
18. On June 15, 2022, the department proposed to deny Trezza's application for an MGA license based upon the findings of the market conduct examination. Trezza appealed that decision and made a written request for a hearing on July 8, 2022. Trezza's application is also being resolved through this consent order.

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Conclusions of Law

1. The commissioner 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, 981.051, 4005.101-4005.103, 4051.051, 4051.401, 4053.051, 4053.151, 4101.051, and 4101.201.
2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. Swyfft and Trezza have knowingly and voluntarily waived all procedural rights to which they may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. Trezza controls the corporate license holder, Swyfft, and has the power to direct or cause the direction of the management and policies of Swyfft, whether directly or indirectly pursuant to TEX. INS. CODE § 4001.003(2).
5. Swyfft and Trezza performed the acts of an MGA and an adjuster without first obtaining the required licenses, in violation of TEX. INS. CODE §§ 101.102, 4101.051, and 4053.051.
6. Swyfft and Trezza committed acts for which a license holder may be disciplined under TEX. INS. CODE § 4005.101, as contemplated in TEX. INS. CODE § 4005.102.

Order

It is ordered that an MGA license with a property and casualty qualification is granted to Richard Daniel Trezza.

It is ordered that an MGA license with a property and casualty qualification is granted to Swyfft, LLC.

It is further ordered that the MGA licenses granted to Richard Daniel Trezza and Swyfft, LLC are suspended for two years, with the suspension being probated, and the terms and conditions stated in this order apply.

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If during the probation period imposed by this order, the department issues any additional licenses or authorizations to Richard Daniel Trezza and Swyfft, LLC, those additional licenses or authorizations will be suspended until the probation period imposed by this order has ended. The suspension will be probated, and the same terms and conditions stated in this order will apply.

Beginning on the date of this order and continuing through the probation period, Richard Daniel Trezza and Swyfft, LLC must submit a quarterly, written report to the department. Each report is due 90, 180, 270, 365, 455, 545, 635, and 730 days after the date of this order, and must include the following information:

- a. Trezza's and Swyfft's current mailing addresses, business location (physical) addresses, telephone numbers, and email addresses;
- b. the name, mailing address, telephone number, and Texas adjuster license number for all persons who or entities which adjusted claims involving Texas risks for Swyfft on behalf of any insurer in any line of business during the previous quarter;
- c. the name and address of any insurer that enters into an MGA contract, agreement, or other arrangement with Trezza or Swyfft, in which Trezza or Swyfft agree to act on behalf of the insurer in the State of Texas, and a description of what authority is granted to Trezza or Swyfft in the contract, agreement, or other arrangement; and
- d. the name and address of any insurer that terminated its MGA contract, agreement, or arrangement with Trezza or Swyfft to act on behalf of the insurer in the State of Texas, and a description of the reason for that termination.

Richard Daniel Trezza and Swyfft, LLC must notify the department immediately of the following:

- a. any change to their mailing addresses, business location (physical) addresses, telephone numbers, or email addresses;
- b. any state or regulatory actions taken against either of them, including formal and informal actions;

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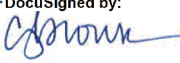
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- c. any state or regulatory actions, including formal and informal actions, taken against any of Swyfft's individual members, managers, or other persons holding 10% or more of the voting stock or voting rights in Swyfft;
- d. any criminal charges or indictments filed (excluding traffic offenses and Class C misdemeanors) against Trezza or any of Swyfft's individual members, managers, or other persons holding 10% or more of the voting stock or voting rights in Swyfft; and,
- e. any written or electronic complaint made against Trezza or Swyfft concerning their conduct as an MGA or agent. Trezza and Swyfft must provide the department with a copy of that complaint, any documents related to or responsive to the complaint, and a written explanation detailing the steps taken to resolve the complaint.

Richard Daniel Trezza and Swyfft, LLC must send all information required to be submitted to the department under the terms of this order, by email to: EnforcementReports@tdi.texas.gov.

It is ordered that Richard Daniel Trezza and Swyfft, LLC must jointly and severally pay an administrative penalty of \$55,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

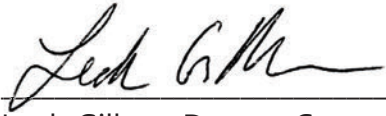
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Cassie Brown
Commissioner of Insurance

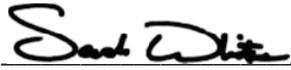
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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Sarah White, Staff Attorney
Enforcement

Affidavit

STATE OF New Jersey §
§
COUNTY OF Somerset §

Before me, the undersigned authority, personally appeared Richard Daniel Trezza, who being by me duly sworn, deposed as follows:

"My name is Richard Daniel Trezza. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I hold the office of Co-CEO and am the authorized representative of Swyfft, LLC. I am duly authorized by said organization to execute this statement.


Swyfft, LLC. has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas."

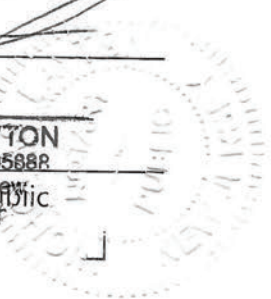


Affiant

SWORN TO AND SUBSCRIBED before me on June 6th, 2023.

(NOTARY SEAL)



Signature of Notary Public
NICHOLAS LAYTON
Commission # 5020588R
Notary Public, State of New Jersey
Printed Name of Notary Public
My Commission Expires
01/15/2028


Affidavit

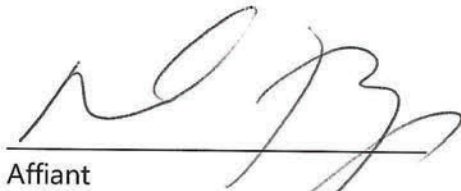
STATE OF New Jersey §
§
COUNTY OF SOMERSET §

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

"My name is Richard Daniel Trezza. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I waive my rights provided by the Texas Insurance Code and other applicable law and acknowledge the jurisdiction of the commissioner.

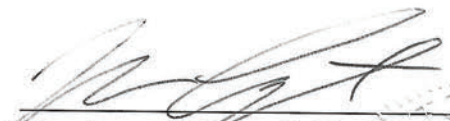
I have knowingly and voluntarily entered into the foregoing consent order and agree with and consent to the issuance and service of the same by the commissioner of insurance of the state of Texas."

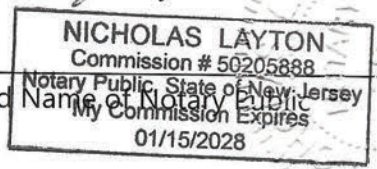


Affiant

SWORN TO AND SUBSCRIBED before me on June 6th, 2023.

(NOTARY SEAL)



Signature of Notary Public

NICHOLAS LAYTON
Commission # 50205888
Notary Public, State of New Jersey
Printed Name of Notary Public
My Commission Expires
01/15/2028