

No. 3797

**OFFICIAL ORDER  
of the  
TEXAS COMMISSIONER OF INSURANCE**

**Date:** JAN 29 2015

**Subject Considered:**

Ronald Gene Fleming  
8212 Ithaca, Ste. 1  
Lubbock, Texas 79423

**DEFAULT ORDER**  
SOAH DOCKET NO. 454-15-1557.C  
TDI ENFORCEMENT FILE NO. 2076

**General remarks and official action taken:**

The commissioner of insurance considers whether disciplinary action should be taken against Ronald Gene Fleming.

**Findings of Fact**

1. Fleming holds a viatical, life settlement broker license, number 13306896 issued by TDI June 3, 2010.
2. Fleming previously held a general lines life, accident, and health license issued by TDI, from January 8, 1988, to February 5, 2013.
3. TDI records show that the last mailing address Fleming provided in writing is 8212 Ithaca, Ste. 1, Lubbock, Texas 79423.
4. On December 9, 2014, TDI sent a notice of hearing to Fleming's last known address, by certified mail, return receipt requested, with a copy by regular mail to his listed mailing address of 8212 Ithaca, Ste. 1, Lubbock, Texas 79423.
5. Fleming failed to file a written response to the notice of hearing within 20 days of the date the notice of hearing was mailed.
6. Fleming used seniors to perpetrate a financial fraud on an insurance company by manufacturing a stranger owned or stranger originated life insurance policy (STOLI) which was intended for sale on the secondary market. A primary purpose of this scheme

was to earn commissions when the life insurance policy was issued and additional income when the policy is sold as a life settlement.

7. Fleming represented to seniors that if they qualified, they would receive free life insurance for two years, the premiums would be paid by a lender, and that the sale of the life insurance policy after two years would yield the senior 15 – 20 percent of the policy's death benefit.
8. Fleming gave Joe and Wanda S a document titled "Senior Life Insurance General Information." The document described the program, in part, with the following statements:
  - The "hidden asset" that could have a lot of value is your ability to purchase life insurance.
  - Would you trade your right to purchase life insurance for \$100,000 or more?
  - This process normally takes 6-8 months. Fortunately, for the senior, no money and very little effort is required on your part. Since the senior is out no money, and the funder bears all the cost, the ultimate offer will be pure profit to the senior.
  - Currently someone in their early 70's and in good health can expect to make from 8 -12 percent of the face value of the policy.
9. In this transaction, Fleming represented to seniors that he would arrange for an irrevocable trust, obtain a life insurance policy on a person, arrange for payment of the future premiums, and then sell it after two years – after the policy's incontestable period - to the highest bidder, and the participant would make 8 – 12 percent of the death benefit, after the premium finance note was paid.
10. Fleming acted as an agent, certified public accountant, and trustee for Joe and Wanda S. Fleming's agent and employee, Mary Yamin, signed the application for the insurance policy, without Joe or Wanda S's knowledge. Protective Life Insurance Company (Protective) issued a life insurance policy on the life of Wanda S with a death benefit of \$5,900,000. An irrevocable trust was the owner of the policy. Fleming was the trustee of this trust. Fleming breached his fiduciary capacity as trustee by self-dealing and earning an undisclosed commission of \$181,602 and an override of \$20,176 from the initial sale of this policy.
11. Fleming misled Joe and Wanda S and Protective. Fleming, in his capacity as a life insurance agent, knew that Wanda S would not qualify for a large life insurance policy. Fleming, as a CPA, created a fictitious insurable net worth in excess of \$5,900,000 for Joe and Wanda S. Fleming calculated Joe S's business income as \$2,810,307. There was \$1,010,762 for the value in a trust, which did not exist. Joe and Wanda S's actual net worth was about \$250,000. If their true net worth was provided to Protective, it would not have issued the policy for \$5,900,000 insuring the life of Wanda S.

12. Fleming induced Joe and Wanda S to participate in the scheme by promising them free insurance and a sum of money when they sold the policy.
13. Fleming signed a General Agent Contract (“Contract”) with Protective to sell life insurance policies. Fleming orchestrated the sale of the \$5,900,000 policy on Wanda S’s life and collected substantial commissions from Protective.
14. Yamin worked for Fleming. According to the department’s records, Yamin was a sub-agent of Fleming. Fleming told Joe and Wanda S Yamin was his secretary. At all material times, Yamin acted as the agent of and at the direction of Fleming, and all knowledge of and actions by Yamin are imputed to Fleming. Joe and Wanda S did not know that Yamin was an insurance agent. Yamin worked in Fleming’s Dallas office and notarized the trust agreement, the guaranty, and credit agreement, without Wanda S being present. Joe and Wanda S have never met Yamin, but only talked to her on the phone.
15. On February 7, 2008, Fleming met with Joe and Wanda S and signed as CPA a document showing an insurable net worth in excess of \$5.9 million.
16. On May 8, 2008, Fleming and Wanda S signed an irrevocable trust agreement creating the trust.
17. On May 8, 2008, Wanda S applied for the policy at Fleming’s direction. In connection with the application, Wanda S signed Protective’s Financial Questionnaire, which represented their net worth to be over \$5,900,000, with \$1,010,762 of that amount coming from an alleged trust. There was earned income of \$188,500 and unearned income of \$31,900 claimed for the last year. Joe and Wanda S admit that this financial information was fraudulent. Eric Lund, a CPA and friend of Fleming, prepared for Protective a financial statement on Joe and Wanda S, showing an insurable net worth of \$5,908,597. Fleming signed this application as the owner of the policy.
18. Yamin signed the Protective’s Agent’s Report and Checklist (“Agent’s Report”) which falsely confirmed Joe and Wanda S’ net worth of over \$5,900,000. Yamin and Fleming falsely answered “No” to the question, “Are you aware of any information not disclosed in the Application which might affect the underwriting of the risk?”
19. On May 8, 2008, Fleming, through Yamin as the writing agent, submitted an application for a \$5,900,000 life insurance policy to Protective.
20. Protective questioned agents and/or employees of 3 Mark Financial regarding the ability of Wanda S to afford the premium, because it was about 80 percent of the claimed annual income. Phone calls and emails demonstrated there were concerns about the financial ability for Wanda S to pay the premiums for the policy. 3 Mark Financial misled Protective by telling them Joe and Wanda S were frugal people and accumulated their wealth by that lifestyle. Protective was told that Wanda S was the beneficiary of a trust, from which she could obtain money, if necessary. The stated annual income of Joe and

Wanda S to Protective was \$287,000. 3 Mark Financial received this false information from Yamin.

21. On June 13, 2008, in reliance on the representations of Yamin, Fleming, and Wanda S, Protective issued policy # xxxxxx136 insuring the life of Wanda S with an effective date of June 12, 2008, and a death benefit of \$5,900,000, and named the Wanda S Irrevocable Trust as owner and beneficiary of the Protective policy.
22. Yamin paid Fleming, the commission from Protective for the sale of this policy insuring the life of Wanda S. 3 Mark Financial paid Fleming \$20,178, half of the override it received from the sale of this policy.
23. The trust agreement appointed Fleming trustee and gave Fleming complete control over the policy. Joe and Wanda S admit they consented to the creation of the trust solely to collect money on the sale of the policy, but they did not understand that the trust agreement gave Fleming sole authority over the trust and insurance policy.
24. Fleming had Wanda S sign a guaranty and credit agreement for the lender of the premiums. Wanda S was personally liable for the entire debt according to these documents. In the term sheet, the lender charged \$177,000 for structuring fees. The documents also provided origination fees of \$9,700 and trustee fees for Fleming of \$1,500.
25. The trust agreement states that no trustee may receive compensation for serving as trustee. In response to a TDI inquiry, Fleming claimed the \$177,000 charged for structuring fees were for costs HM Ruby Fund LP (the premium financing company) would incur for interest to Wells Fargo, legal fees, medical records, trustee fees, as well as their profit on the transaction.
26. HM Ruby Fund LP was charging 10 percent interest per year on the advanced premiums and the structuring, origination, and trustee's fees. The structuring fees, origination fee, and trustee's fees are more than 93 percent of the first year premium. Interest is calculated from the beginning of the note for the entire amount of premiums, even though two years of premiums were not paid to the insurance company from the beginning of the loan. Fleming represented to Joe and Wanda S that they could pay off the loan to HM Ruby Fund LP and keep the policy. This was not an option. Joe and Wanda S did not have the financial ability to pay the loan balance (even without the \$177,000 structuring fees) or pay the premiums.
27. The Wanda S policy's first annual premium was \$201,780. Money arranged by Fleming was periodically deposited into the trust's bank account from which Fleming would send payment to Protective, thereby concealing the true source of the premiums. Fleming, as trustee, paid Protective \$201,780 June 27, 2008, \$109,357.77 February 11, 2009, and \$18,000 July 9, 2010. The policy then went into the grace period.

28. HM Ruby Fund LP, the entity that financed the premiums for the Wanda S life insurance policy, has never held a premium finance company license.
29. On November 3, 2010, Lotus Life, LLC purchased the policy for a gross sales price of \$648,657 for Quantlife, an affiliate of HM Ruby Fund LP. As a life settlement broker and trustee, Fleming signed a life insurance settlement application. HM Ruby Fund LP was paid \$625,182 for its loan.
30. Fleming paid Protective \$329,137.77 for the premiums. The alleged structuring fees of \$177,000, with interest totaled \$219,000. The trust was paid \$3,000 to Ronald Fleming, as trustee – which was not paid to the beneficiary of the trust, and \$3,000 was paid as a broker fee to United Business Alliance, which was to Ronald Fleming, CPA. This unauthorized charge of \$177,000, with interest, was money that should have been paid to the trust.
31. Protective had no knowledge of the loan which was needed to pay the premiums for the Wanda S policy or it would never have issued the policy. Protective never would have issued the life insurance policy on Wanda S if the premium financing from an unauthorized premium finance company was disclosed. On December 19, 2011, Wanda S notified Protective that the policy was a fraud. Protective investigated the complaint and terminated Fleming's appointment for cause.
32. In response to a TDI inquiry, Fleming claimed the insurance policy was not sold, but foreclosed on by the lender in exchange for the extinguishment of the loan. The fees were charged, without regard to the impact on the beneficiary of the trust or the future sale of the policy.
33. According to Fleming, "The policy was exchanged in lieu of paying the note to Wells Fargo. I had nothing to do with this. It was the term of the original contract." Fleming stated that nobody received any money for this policy.
34. Fleming was not truthful, misrepresented, or concealed facts to the TDI in response to official inquiries regarding these transactions.
35. In these transactions, Fleming acted as insurance agent, CPA, life settlement broker, and trustee. As a trustee, he owed fiduciary duties to the trust and breached those duties in his arrangement of premium financing with an unlicensed company. In his capacity as trustee, Fleming failed to pay funds received to the beneficiary of the trust and he collected compensation as trustee which was prohibited by the trust agreement. As CPA and insurance agent, he created a fictitious insurable net worth, in order for Protective to issue the policy.
36. Fleming admitted Wanda S received two years of insurance at no cost. Fleming stated Joe and Wanda S lost no money, asserted that no one was hurt by this arrangement, and no one lost any money except HM Ruby Fund LP. However, HM Ruby Fund LP received \$625,182.

37. On February 9, 2014, TDI received a general lines life, accident, and health insurance license application from Fleming.
38. On April 9, 2014, the licensing division of the department mailed a summary denial letter to Fleming at his last known address by certified mail, return receipt requested.
39. The letter informed Fleming of TDI's proposal to deny his application for licensure and of his right to request a hearing.
40. In response to TDI's letter, Fleming submitted a request for hearing received May 9, 2014, by TDI.

### Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, and 4054.051; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. TEX. GOV'T CODE § 2001.056; TEX. INS. CODE § 82.055; and 28 TEX. ADMIN. CODE §§ 1.47, 1.88, and 1.89 give the commissioner authority to informally dispose of this case.
3. Based on 28 TEX. ADMIN. CODE § 19.906, Fleming's last known address is presumed to be 8212 Ithaca, Ste. 1, Lubbock, Texas 79423.
4. The department mailed a notice of hearing to Fleming's last known address as required by 28 TEX. ADMIN. CODE §§ 1.28(c) and 1.88(c); 1 TEX. ADMIN. CODE § 155.401; and TEX. GOV'T CODE Ch. 2001.
5. The allegations in the notice of hearing, set out as findings of fact nos. 6-40, are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.
6. Fleming violated TEX. INS. CODE § 4005.101 because he engaged in fraudulent or dishonest acts or practices.
7. Fleming's general lines life, accident, and health license may be revoked pursuant to TEX. INS. CODE §§ 4005.102 and 4005.107.
8. Fleming's viatical, life settlement broker license may be revoked pursuant to TEX. INS. CODE § 4005.102.
9. Fleming's application for general lines life, accident, and health license may be denied pursuant to TEX. INS. CODE § 4005.102.

3797

Commissioner's Order  
Page 7 of 8

Order

The commissioner revokes the viatical, life settlement broker license held by Ronald Gene Fleming. The commissioner revokes the general lines life, accident, and health license previously held by Ronald Gene Fleming. The commissioner denies the application of Ronald Gene Fleming for a general lines life, accident, and health license.

The commissioner orders Ronald Gene Fleming to pay restitution to Protective Life Insurance Company in the amount of \$201,780 within 30 days from the date of this order and provide proof of this payment to the Texas Department of Insurance, Attn: Catherine Bell, Enforcement Section, MC110-1A, P.O. Box 149104, Austin, Texas 78714-9104.



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David C. Mattax  
Commissioner of Insurance

STATE OF TEXAS           §  
COUNTY OF TRAVIS       §

**Affidavit**

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

“My name is Ginger Yocom 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 the Texas Department of Insurance’s records concerning Ronald Gene Fleming. I have confirmed that the last mailing address provided to the department by Ronald Gene Fleming, in writing was 8212 Ithaca, Ste. 1, Lubbock, Texas 79423.

I have confirmed that the file maintained by the Enforcement Section of the Compliance Division contains a notice of hearing dated December 9, 2014, filed with the State Office of Administrative Hearings.

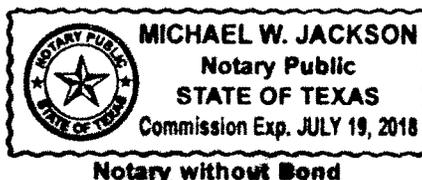
I have confirmed that a certified letter, return receipt requested, and a first-class mailing, both containing a notice of hearing addressed to Ronald Gene Fleming’s last known address, were deposited in the United States mails.

A copy of the certified mail log maintained by Enforcement is attached as exhibit A, and a copy of the United States Postal Service Form 3877 is attached as exhibit B.”

Ginger Yocom  
Ginger Yocom, Affiant

SWORN TO AND SUBSCRIBED before me on December 30, 2014.

M. Jackson  
M. JACKSON  
Notary Public, State of Texas





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3797

