

No. **4273**

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

Date: JAN 22 2016

**Subject Considered:**

**Telly Smith, and Telly Smith d/b/a Exodus Title Company**  
Garza West Unit  
TDCJ# 01971983  
4250 Highway 202  
Beeville, Texas 78102-8982

**DEFAULT ORDER**

SOAH Docket No. 454-16-1220.C  
TDI Enforcement File No. 5477

**General remarks and official action taken:**

The commissioner of insurance considers whether disciplinary action should be taken against Telly Smith and Telly Smith d/b/a Exodus Title Company.

**FINDINGS OF FACT**

1. According to department records, Telly Smith has never held a license or authorization issued by TDI.
2. According to department records, Smith d/b/a Exodus Title Company has never held a license or authorization issued by TDI.
3. The last known mailing address for Smith and Smith d/b/a Exodus Title Company is Garza West Unit, TDCJ# 01971983, 4250 Highway 202, Beeville, Texas 78102-8982.
4. On November 20, 2015, the department sent a notice of hearing to Smith's last known mailing address.
5. Smith submitted a written response to the notice of hearing.

6. Smith failed to appear in person or through a representative at the hearing that was held on December 21, 2015.
7. Smith d/b/a Exodus Title Company failed to appear in person or through a representative at the hearing that was held on December 21, 2015.
8. Smith is an individual who has resided in Harris County, Texas.
9. Jason Kyle Gatzka (Gatzka) is one of Smith's associates. In December 2011, TDI issued Gatzka a general lines insurance license, which expired in December 2013 when Gatzka did not seek renewal.
10. Kimberly Yeldell McCoy (McCoy) is one of Smith's associates. McCoy is commissioned as a notary public in Texas. In July 2013, TDI issued McCoy a county mutual agent license, which expired in July 2015 when McCoy did not seek renewal. McCoy has never held an escrow officer license issued by TDI.
11. McCoy's mailing address registered with TDI is 3202 Oakland Lake Circle, Missouri City, Texas. However, at some point before February 2015, McCoy stopped accepting mail at this address. McCoy failed to notify TDI that she had changed her mailing address.
12. On or about December 6, 2010, Smith registered an assumed name in Harris County. Smith's assumed name is Exodus Title Company, which is not a business organization that is licensed by TDI or registered with the Texas Secretary of State. Smith has never held a license or authorization issued by TDI.
13. However, TDI has issued a title agent license to Exodus Title, LLC, an entity that is not affiliated with Smith or Smith's assumed name.
14. Smith used his assumed name Exodus Title Company to mislead lenders from whom Smith and Gatzka sought to borrow money. Smith created a website, [www.exodustitlecompany.com](http://www.exodustitlecompany.com), and advertised that Exodus Title Company was able to sell title insurance in Texas.
15. On more than one occasion, Smith obtained title insurance commitments from a licensed title insurance agent. Smith manipulated these title commitments to falsely represent that the commitments had been issued by Exodus Title Company. Smith presented these fraudulent commitments to lenders.

16. On more than one occasion, Smith presented settlement statements to lenders that identified the settlement agent as Exodus Title Company.
17. By providing to lenders these title insurance commitments and settlement statements, Smith knowingly made false representations that Smith d/b/a Exodus Title Company was authorized to transact title insurance business in Texas. The lenders relied on these false representations and loaned money to entities controlled by Smith. The lenders have been harmed by Smith's conduct.
18. In October 2012, Gatzka entered a contract to purchase property owned by Pan Atlantic Investments, Inc. Gatzka agreed to pay \$175,800 cash and give Pan Atlantic a \$703,200 note.
19. Pan Atlantic required Gatzka to demonstrate his ability to pay the seller-financing loan. Gatzka gave the seller a bank statement that represented Gatzka had more than \$432,000 in a checking account. In fact, Gatzka had only \$6.20 in this account at this time. Pan Atlantic relied on Gatzka's fraudulent bank statement and was harmed by Gatzka's false representation. Gatzka has presented falsified financial statements to another lender on at least one other occasion.
20. Gatzka recommended that they open an escrow at Exodus Title Company. Pan Atlantic agreed, and sent the earnest money contract and closing instructions to an email address for Exodus Title Company that Gatzka provided.
21. Gatzka represented to Pan Atlantic that Exodus Title Company had received Gatzka's purchase funds. In fact, Gatzka never gave any money to Exodus Title Company. When Pan Atlantic did not receive the sale proceeds, it confronted Exodus Title Company.
22. On November 10, 2012, Pan Atlantic executed a deed to Gatzka notarized by McCoy. However, this deed never was recorded. Instead, on November 16, 2012, a deed from Pan Atlantic to EHG Investments, LLC was recorded. EHG Investments is controlled by Smith. Pan Atlantic did not execute, or otherwise authorize, the deed to EHG Investments.
23. In late November 2012, Pan Atlantic requested a title report from another title insurance company and discovered the deed to EHG Investments. Exodus Title Company explained that a third party recording company had mixed up documents between two transactions, and represented that it would correct the problem. Pan Atlantic canceled the transaction with Gatzka.

24. On December 18, 2012, EHG Investments, under Smith's signature, executed a deed of trust for Pan Atlantic's property as security for a loan from a third-party lender. EHG Investments did not have authority to execute this deed of trust.
25. In 2013, Smith obtained a second fraudulent loan on Pan Atlantic's property. On May 16, 2013, a deed was recorded purporting to convey Pan Atlantic's property to TJS Holdings, LLC, another entity controlled by Smith. On June 5, 2013, TJS executed a deed of trust notarized by McCoy. Also on June 5, McCoy signed a settlement statement on behalf of Exodus Title Company promising to disburse the loan funds accordingly. In fact, Pan Atlantic never conveyed the property to TJS Holdings. Smith paid McCoy to notarize documents and sign settlement statements.

#### CONCLUSIONS OF LAW

1. The commissioner has jurisdiction pursuant to TEX. INS. CODE §§ 82.051 – 82.056, 101.101 – 101.153, 541.101 – 541.111, 2501.005, 2651.001, and 2652.001; TEX. BUS. & COM. CODE §§ 17.41 – 17.50; and TEX. GOV'T CODE §§ 2001.051 – 2001.178.
2. The commissioner has authority to dispose of this case informally pursuant to TEX. GOV'T CODE § 2001.056; and 28 TEX. ADMIN. CODE §§ 1.47, 1.88, and 1.89.
3. TDI sent a notice of hearing to Telly Smith'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.
4. The allegations in the notice of hearing, set out as findings of fact numbers 8 – 25, are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.
5. Telly Smith and Telly Smith d/b/a Exodus Title Company engaged in the unauthorized business of insurance, under TEX. INS. CODE §§ 101.102, 2501.005, 2651.001, and 2652.001.
6. Telly Smith and Telly Smith d/b/a Exodus Title Company engaged in unfair or deceptive acts or practices in the business of insurance, as contemplated by TEX. INS. CODE §§ 541.003, 541.051, 541.052, 541.059, and 541.061.
7. Telly Smith and Telly Smith d/b/a Exodus Title Company engaged in false, misleading, or deceptive acts or practices, as contemplated by TEX. BUS. & COM. CODE § 17.46(b)(1), (2), (3), (5), and (24).

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COMMISSIONER'S ORDER

Telly Smith, and Telly Smith d/b/a Exodus Title Company

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The commissioner orders Telly Smith to cease and desist from engaging in the unauthorized business of insurance. The commissioner orders Telly Smith to cease and desist from engaging in unfair methods of competition and deceptive acts or practices in the business of insurance.

The commissioner orders Telly Smith d/b/a Exodus Title Company to cease and desist from engaging in the unauthorized business of insurance. The commissioner orders Telly Smith d/b/a Exodus Title Company to cease and desist from engaging in unfair methods of competition and deceptive acts or practices in the business of insurance.



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David C. Mattax

Commissioner of Insurance