

No. 2020-6381

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

Date: 06/29/2020

Subjects Considered:

Elite Home Solutions Inc.
5100 Eldorado Pkwy #102-526
McKinney, Texas 75070

Kirk Buchanan
5100 Eldorado Pkwy #102-526
McKinney, Texas 75070

Consent Order
TDI Enforcement File Nos. 17437 & 22311

General remarks and official action taken:

This is a consent order with Elite Home Solutions Inc. (Elite) and Kirk Buchanan (Buchanan), collectively Respondents. The department alleges that Elite, a roofing company, and Buchanan, the company's owner, acted and/or advertised as a public insurance adjuster without a license. Respondents have agreed to cease and desist from performing the acts of a public insurance adjuster or otherwise engaging in acts that constitute the business of insurance in Texas. Respondents further agree to pay, jointly and severally, a \$6,000 administrative penalty.

Waiver

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

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Pursuant to Tex. Ins. Code § 82.055(b), Respondents do not admit to a violation of any provision of the Texas Insurance Code or a rule of the department. Respondents further maintain that the existence of a violation is in dispute. However, for the purposes of settlement, Respondents have agreed to this order.

Findings of Fact

Roofing and Construction Contractor

1. Elite is a roofing and construction business owned by Buchanan and located at 5100 Eldorado Pkwy #102-526, McKinney, Texas 75070.
2. Neither Elite, Buchanan, nor any employee of Elite hold a public insurance adjuster license.

Unauthorized Practice of Public Insurance Adjusting

3. On or about March 12, 2018, the department received a complaint alleging Respondents engaged in the unauthorized practice of public insurance adjusting.
4. Elite used language describing the acts of a public insurance adjuster on the company's website, including the following:
 - a. "The insurance claims specialists at Elite Home Solutions are highly trained and capable of ensuring your insurance company provides you with a full and fair damage assessment.
 - b. "We will ensure you obtain the money you deserve to have your restoration completed properly."
 - c. "Elite Home Solutions offers complete and comprehensive help from start to finish in working with you and your insurance company to help you quickly and easily recover the full amount due to you and complete all repairs."
 - d. "This allows us to track and document every step of the claims process ensuring you, the property owner, the best possible service and settlement."
 - e. "We walk you through two simple steps on exactly how to file your claim."

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- f. "We serve as your representative to ensure that all damage is identified and included in the claim."
- g. "Throughout the entire claims process, we stay in constant communication with your insurance company. We submit all of the documents to the Insurance Company for you, and handle all of the communication from requesting a claim number to submitting the final certified invoice."
- h. ". . . we will submit an itemized supplement with documentation to the insurance company for you, so you will be paid for any and all extra costs. After the completion of all repairs and you are 100% satisfied, we will submit a certified invoice to the insurance company in order for you to receive your full settlement."
- i. "The purpose of home owner's insurance is to protect homeowners against losses in their property's value due to damage that is beyond their control."
- j. "Your insurance company will compensate you for your loss and replace your roof."
- k. "If you have legitimate damage, you're entitled to a re-inspection once you choose a contractor who is willing to work with your insurance company."
- l. "The best results for the benefit of the homeowner seem to be obtained when an experienced roofer walks through the inspection with the insurance adjuster and calls to the adjuster's attention any damage that he sees. It's always best to have a professional roofer present at the time of the adjuster's inspection. Most professional roofers should have the homeowners best interest at heart."
- m. ". . . most insurance companies have a statute of limitations and many give you less than a year to file."
- n. "If your roof has any damage what-so-ever you have a VALID insurance claim and should file with your insurance company. Insurance companies can not raise rates or cancel your policy for a weather related claim. It is illegal for them to do so."

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5. Respondents admit to the use of improper language, but maintain that in practice, neither the company nor its employees, performed the acts of a public insurance adjuster.
6. Respondents cooperated with the department and removed all language referencing the unauthorized practice of public insurance adjusting from their website.
7. Respondents agree to comply with all insurance laws in the future.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 101.101-101.156, and Ch. 4102.
2. The commissioner has authority to dispose of this case informally pursuant to TEX. GOV'T CODE § 2001.056, TEX. INS. CODE § 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Respondents 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. Respondents engaged in the unauthorized practice of public insurance adjusting, as contemplated by TEX. INS. CODE § 4102.001(3)(A)(i) when they acted on behalf of an insured in negotiating for or effecting the settlement of a claim or claims for loss or damage under any policy of insurance covering real or personal property, in violation of TEX. INS. CODE § 4102.051.
5. Respondents engaged in the unauthorized practice of public insurance adjusting, as contemplated by TEX. INS. CODE § 4102.001(3)(B) when they advertised, solicited business, or held themselves out to the public as an adjuster of claims for loss or damage under any policy of insurance covering real or personal property, in violation of TEX. INS. CODE § 4102.051.
6. Respondents violated TEX. INS. CODE § 4102.163(a) by acting as a public insurance adjuster or advertising to adjust claims for any property for which the contractor is providing or may provide roofing services, regardless of whether the contractor holds a license.

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Order

It is ordered that Elite Home Solutions Inc. and Kirk Buchanan must cease and desist immediately and in perpetuity from:

- a. performing the acts of a public insurance adjuster or otherwise engaging in acts that constitute the business of insurance in Texas;
- b. making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or by electronic means, on the internet, in an email or via social media, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to performing the acts of public insurance adjuster, which is untrue, deceptive, or misleading;
- c. using language in advertisements and/or business forms describing the acts of a public insurance adjuster or any activities related to conducting the unauthorized practice of public insurance adjusting or the business of insurance in Texas.

It is further ordered that Elite Home Solutions Inc. and Kirk Buchanan must pay, jointly and severally, an administrative penalty of \$6,000 within 30 days of the date of this order. The penalty must be paid by cashier's check or money order made payable to the "State of Texas" and sent to the Texas Department of Insurance, Attn: Enforcement Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

Kent C. Sullivan
Commissioner of Insurance

By:  _____
Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

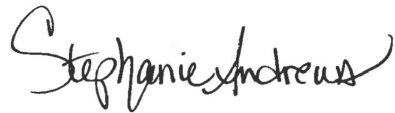
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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Stephanie Andrews, Staff Attorney
Enforcement Division

Approved as to form and content:



Brian Benitez
Counsel for Respondents

Affidavit

STATE OF TEXAS §

§

COUNTY OF COLLIN §

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

"My name is Kirk Buchanan, owner of Elite Home Solutions Inc. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

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

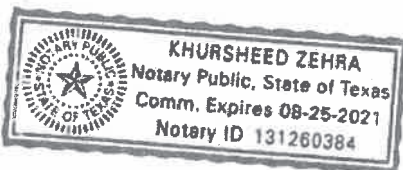
I have knowingly and voluntarily entered into this consent order and agree with and consent to the issuance and service of the same by the commissioner of insurance of the State of Texas."



Affiant

SWORN TO AND SUBSCRIBED before me on this 12 day of May, 2020.

(NOTARY STAMP)


Signature of Notary of Public

Affidavit

STATE OF TEXAS §

§

COUNTY OF Collin §

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

"My name is Kirk Buchanan, owner of Elite Home Solutions Inc. I am the authorized representative of Elite Home Solutions Inc., and I am duly authorized by said company to execute this statement. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

Elite Home Solutions Inc. waives rights provided by the Texas Insurance Code and other applicable law and acknowledges the jurisdiction of the commissioner.

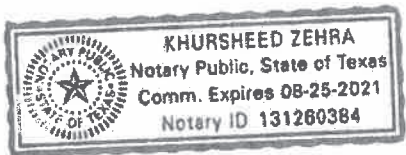
Elite Home Solutions Inc. has knowingly and voluntarily entered into this consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the State of Texas."

Kirk Buchanan

Affiant

SWORN TO AND SUBSCRIBED before me on this 12 day of May, 2020.

(NOTARY STAMP)



Khursheed Zehra
Signature of Notary of Public