

No. 2022-7311

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

Date: 04/28/2022

Subject Considered:

James Kenzel Fitzgerald III

[REDACTED]
Austin, TX 78735

Consent Order
TDI Enforcement File No. 26875

General remarks and official action taken:

This is a consent order with James Kenzel Fitzgerald III (Fitzgerald). Fitzgerald engaged in dishonest conduct related to the issuance of three life insurance policies. Fitzgerald has agreed to pay \$1,000 administrative penalty for these violations.

Waiver

Fitzgerald acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Fitzgerald waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

Findings of Fact

1. Fitzgerald, individual identification number 480812, holds a general lines agent license with a life, accident, health, and HMO qualification and a property and casualty qualification, both issued by the department on January 22, 2002.
2. Fitzgerald was an exclusive agent with Allstate from June 1, 2008, to January 22, 2021.

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3. In 2019, Fitzgerald promised to pay the premiums for three insureds if they submitted applications for life insurance policies.
4. With consent from the insureds, Fitzgerald submitted the life insurance applications and entered his personal bank account information for auto draft of the premiums.
5. In 2020, Fitzgerald sent a request to Allstate to stop the auto draft and put the policies on direct quarterly bill. The policies then lapsed for nonpayment.
6. Allstate conducted an investigation of Fitzgerald in 2020 and discovered that Fitzgerald had issued three life insurance policies in which the monthly premium was paid out of his personal bank account.
7. As a result of those life insurance policies being issued, Fitzgerald qualified for and received commissions and commission bonuses.
8. Fitzgerald was charged back a portion of those commissions and bonuses after the policies terminated but still obtained an approximate net production credit of \$1,000.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 4051.051, and 4054.051.
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. Fitzgerald has knowingly and voluntarily waived all procedural rights to which he 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. Fitzgerald violated TEX. INS. CODE § 4005.101(b)(5) by engaging in fraudulent or dishonest acts or practices in relation to the issuance of three life insurance policies.

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Order

It is ordered that James Kenzel Fitzgerald III pay an administrative penalty of \$1,000 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.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Fraud and Enforcement Division



Sydney Moore, Staff Attorney
Enforcement

