

No. **2023-8189**

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

Date: 9/6/2023

Subject Considered:

Texas Department of Insurance

v.

Veronica Carolina Luengo

SOAH Docket No. 454-22-07344.C

General Remarks and Official Action Taken:

The subject of this order is Veronica Carolina Luengo's general lines agent license with a life, accident, and health qualification. This order revokes Veronica Carolina Luengo's license because of the finding that she willfully violated an insurance law of this state and engaged in fraudulent or dishonest acts or practices.

Background

After proper notice was given, the above-styled case was heard by an administrative law judge for the State Office of Administrative Hearings. The administrative law judge made and filed a proposal for decision containing a recommendation that Ms. Luengo's license be revoked. A copy of the proposal for decision is attached as Exhibit A.

Findings of Fact

The findings of fact contained in Exhibit A are adopted by the commissioner and incorporated by reference into this order.

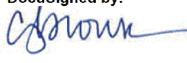
Conclusions of Law

COMMISSIONER'S ORDER
TDI v. Veronica Carolina Luengo
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The conclusions of law contained in Exhibit A are adopted by the commissioner and incorporated by reference into this order.

Order

It is ordered that Veronica Carolina Luengo's general lines agent license with a life, accident, and health qualification is revoked.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:

5DAC5618BBC74D4... _____
Jessica Barta, General Counsel

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Kara Salmanson, Attorney

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

—
**TEXAS DEPARTMENT OF INSURANCE,
PETITIONER**

v.

**VERONICA CAROLINA LUENGO,
RESPONDENT**

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Insurance (Department) seeks to revoke Veronica Carolina Luengo’s general lines agent license because Staff alleges that she willfully violated an insurance law of this state and engaged in fraudulent or dishonest acts or practices.¹ Staff further requests that Ms. Luengo be ordered to pay an unspecified amount of restitution to an alleged victim of these improper acts.

¹ In the Original Petition, Staff also sought an administrative penalty. At the hearing, Staff clarified that this relief was only an alternative to revocation.

After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends the Department revoke Ms. Luengo's license but finds that Staff has not met its burden to show that Ms. Luengo should be ordered to pay restitution.

I. PROCEDURAL HISTORY, NOTICE, AND JURISDICTION

On February 21, 2023, ALJ Daniel Wiseman with the State Office of Administrative Hearings convened a hearing on the merits in this case via Zoom videoconference. Attorney Stephanie Andrews represented Staff. Ms. Luengo appeared and represented herself. The record closed on February 22, 2023, upon the filing of admitted exhibits. Notice and jurisdiction were not disputed and are set out in the Findings of Fact and Conclusions of Law below.

II. DISCUSSION

A. APPLICABLE LAW

The Department may discipline a license holder if the Department determines that the license holder has willfully violated an insurance law of this state or has engaged in fraudulent or dishonest acts or practices.² Among other possible sanctions, the Department may revoke the license of a person who is found to have committed such misconduct.³ In addition, the Commissioner of Insurance may order a license holder to make complete restitution to a Texas resident who is harmed by

² Tex. Ins. Code § 4005.101(b)(1), (5).

³ Tex. Ins. Code § 4005.102(2)(A).

a violation of the Texas Insurance Code.⁴ Staff has the burden of showing by a preponderance of the evidence that Ms. Luengo's license should be revoked based on her conduct and that restitution should be ordered.⁵

B. EVIDENCE

At the hearing, Staff offered eight exhibits, which were admitted,⁶ and presented testimony of Ms. Luengo; Michelle Velazquez, a compliance investigator with Combined Insurance; Rodolfo DeHoyos, a Department investigator; and Lewis Wright, administrative review liaison to the Department's enforcement division. Ms. Luengo testified on her own behalf and did not present any documentary evidence.

1. Background Facts

On October 17, 2018, the Department issued general lines agent license No. 1963049 with a life, accident, and health qualification to Ms. Luengo. She worked for Combined Insurance from 2018 until August 2020.

2. Testimony of Michelle Velazquez

Ms. Velazquez is an investigator for Combined Insurance. She testified that she began an investigation of Ms. Luengo after the company received a consumer

⁴ Tex. Ins. Code § 82.053.

⁵ 1 Tex. Admin. Code § 155.427; *Granek v. Tex. State Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.) (proper standard of proof in agency factual determinations is preponderance of the evidence).

⁶ TDI Exs. 1-8.

complaint from M.R.⁷ regarding debits to her account for policies that she had not approved. M.R. reported that Ms. Luengo, who was her insurance agent, was not responsive to her questions about these debits. Ms. Velazquez's investigation discovered that there had been several calls made to the company on M.R.'s behalf that originated from numbers associated with Ms. Luengo and her husband, Alexander Barboza. After listening to the recordings of these calls, Ms. Velazquez said it was clear that Ms. Luengo and her husband had identified themselves as the policyholder, providing dates of birth, addresses, and other personal information.⁸ When Ms. Velazquez interviewed Ms. Luengo, she initially stated that she had not made any calls posing as M.R., though, when presented with the evidence of the phone calls, admitted doing so. Ultimately, according to Ms. Velazquez, Ms. Luengo admitted to impersonating several clients in the same manner, providing her husband with information about male policyholders so that he could impersonate them. After completing her investigation, Ms. Velazquez drafted a report outlining the misconduct, which resulted in the company terminating Ms. Luengo's employment.

3. Investigation Report

Ms. Velazquez's report,⁹ dated August 4, 2020, concluded that Ms. Luengo had violated the company's zero tolerance policy on fraud and theft in connection with her and her husband's impersonation of policyholders and Ms. Luengo's

⁷ In order to protect their privacy, policyholders are identified in this proposal for decision only by their initials.

⁸ See TDI Exs. 7A-7K (recorded phone calls and translated transcripts).

⁹ TDI Ex. 6.

unauthorized debiting of M.R.'s account. The report identified the following instances of Ms. Luengo and her husband impersonating policyholders on calls with Combined Insurance:

- On December 3, 2019, Ms. Luengo called the company impersonating R.R. regarding charges to R.R.'s account and to ask if R.R.'s agent (Ms. Luengo) would get credit for the transactions.¹⁰
- On December 27, 2019, Mr. Barboza called the company impersonating G.L. regarding charges to G.L.'s account. Ms. Luengo joined the call impersonating J.B.¹¹
- On January 28, 2020, Mr. Barboza called the company impersonating E.B. to verify E.B.'s billing date.¹²
- On June 18, 2020, Ms. Luengo called the company impersonating M.R. to cancel one of M.R.'s policies.¹³
- On July 1, 2020, Ms. Luengo called the company impersonating M.R. to inquire about M.R.'s policies and to cancel the coverage for M.R.'s former husband.¹⁴

¹⁰ TDI Ex. 6 at 30-31.

¹¹ TDI Ex. 6 at 30.

¹² TDI Ex. 6 at 31.

¹³ TDI Ex. 6 at 30.

¹⁴ TDI Ex. 6 at 29-30.

The report also contains screenshots of text messages apparently between M.R. and Ms. Luengo over several days, with M.R. unsuccessfully seeking information about her policies and requesting a refund for unauthorized debits relating to a duplicate account.¹⁵

4. Testimony of Rodolfo DeHoyos

Mr. DeHoyos has been an investigator with the Department for over six years and participated in the investigation of the allegations against Ms. Luengo. He testified that he was involved in a conference call with Ms. Luengo in December of 2022, in which she denied impersonating any insureds. According to Mr. DeHoyos, Ms. Luengo stated that she was no longer with her husband and that she did not remember the details from the Combined Insurance investigation that had taken place in 2020. Mr. DeHoyos also testified that he had reviewed the recordings of calls Ms. Luengo had made to Combined Insurance impersonating policyholders and translated them from Spanish to English.¹⁶

5. Testimony of Lewis Wright

Mr. Wright is the administrative review liaison to the Department's enforcement division. Mr. Wright testified that the Department is notified when insurance carriers terminate an agent's appointment for conduct that indicates possibly fraudulent activity. He testified that Ms. Luengo's impersonation of policyholders put those consumers at risk of incorrect coverage or of having personal

¹⁵ TDI Ex. 6 at 53-63.

¹⁶ The translations were admitted into evidence as TDI Exs. 7A-7K.

information exposed. According to Mr. Wright, considering the guidelines in Texas Insurance Code section 4005.101, Ms. Luengo's license should be revoked in order to protect Texas consumers.

6. Testimony of Veronica Luengo

Ms. Luengo admitted that she impersonated policyholders but testified that her clients had authorized her to do so and that she had never misappropriated funds from M.R. According to Ms. Luengo, her actions were more efficient for her clients than having them contact the company themselves. She disputed that Combined Insurance terminated her, testifying that she had resigned first.¹⁷ Ms. Luengo stated that she had been a successful agent with the company, which should not be overlooked.

C. ANALYSIS

Pursuant to Texas Insurance Code section 4005.101(b)(1) and (5), the Department may discipline a license holder if the Department determines that the license holder has willfully violated an insurance law of this state or has engaged in fraudulent or dishonest acts or practices. The relevant facts are not in dispute. Ms. Luengo admits impersonating policyholders as alleged. While she testified that her clients had authorized her to do so, she presented no evidence of any authorization. In addition, her testimony is contradicted by M.R.'s text messages inquiring about the status of her policies, which indicates that Ms. Luengo did not have authorization to act on M.R.'s behalf. Even if Ms. Luengo had been authorized to pose as her

¹⁷ This claim is supported by a resignation letter dated August 10, 2020—seven days before she was allegedly terminated by the company. TDI Ex. 8 at 111.

clients, doing so was nevertheless, at best, dishonest. Moreover, in her interactions with the Combined Insurance and Department investigators, Ms. Luengo was evasive and untruthful, demonstrating that she understood she had acted wrongly and that this misconduct was willful. In this case, revocation is appropriate based on the repeated instances of the misconduct, Ms. Luengo's attempts to deny that misconduct, and the potential harm to her clients, including having their personal information exposed and the possibility that changes could have been made to their policies, or debits made to their accounts, without their approval.

Regarding Staff's request to impose restitution, there is insufficient evidence to support such an order. At the hearing, Staff was unable to "confirm the final amount" of restitution that should be made to M.R. but pointed to the text exchange between M.R. and Ms. Luengo as evidence that M.R. had been charged inappropriately due to Ms. Luengo's misconduct. However, it is not possible to confirm that M.R. had been overcharged, or by how much, based on that confused exchange alone.

For these reasons, the ALJ finds the preponderant evidence establishes that Ms. Luengo engaged in fraudulent or dishonest acts or practices that constituted a willful violation of the Texas Insurance Code and that the Department should revoke her license. The ALJ also finds that Staff did not meet its burden to show that Ms. Luengo should be ordered to provide restitution.

III. FINDINGS OF FACT

1. On October 17, 2018, the Texas Department of Insurance (Department) issued general lines agent license No. 1963049 with a life, accident, and health qualification to Veronica Carolina Luengo.
2. In 2018, Combined Insurance appointed Ms. Luengo as an agent.
3. Between December 2019 and July 2020, Ms. Luengo and her husband, Alexander Barboza, made several phone calls to Combined Insurance impersonating policyholders:
 - a. On December 3, 2019, Ms. Luengo called Combined Insurance impersonating R.R. regarding charges to R.R.'s account and to ask if R.R.'s agent (Ms. Luengo) would get credit for the transactions.
 - b. On December 27, 2019, Mr. Barboza called Combined Insurance impersonating G.L. regarding charges to G.L.'s account. Ms. Luengo joined the call impersonating J.B.
 - c. On January 28, 2020, Mr. Barboza called Combined Insurance impersonating E.B. to verify E.B.'s billing date.
 - d. On June 18, 2020, Ms. Luengo called Combined Insurance impersonating M.R. to cancel one of M.R.'s policies.
 - e. On July 1, 2020, Ms. Luengo called Combined Insurance impersonating M.R. to inquire about M.R.'s policies and to cancel the coverage for M.R.'s former husband.
4. During these calls, Ms. Luengo and her husband used policyholders' personal information to impersonate them, putting that information at risk and potentially making unapproved changes to their policies or unauthorized debits to their accounts.
5. After Combined Insurance conducted an investigation documenting this misconduct, Ms. Luengo resigned on August 10, 2020.

6. On July 28, 2022, Department Staff filed a petition with the State Office of Administrative Hearings (SOAH), seeking to impose sanctions on Ms. Luengo for violations of the Texas Insurance Code.
7. On August 9, 2022, Department Staff issued a notice of hearing.
8. On December 9, 2023, Administrative Law Judge (ALJ) Daniel Wiseman with SOAH issued an order resetting the hearing on the merits.
9. Together, the notice of hearing and December 9, 2023 order contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular section of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
10. On February 21, 2023, ALJ Wiseman convened a hearing on the merits via Zoom videoconference. Attorney Stephanie Andrews represented Staff. Ms. Luengo appeared and represented herself. The record closed on February 22, 2023, after the filing of admitted exhibits.

IV. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 82.051-053; 4001.101; 4005.101-.102, 4051.051, 4054.051.
2. SOAH has authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Ins. Code § 4005.104.
3. Ms. Luengo received timely and sufficient notice of the hearing. Tex. Gov't Code §§ 2001.051-.052.; Tex. Ins. Code § 4005.104(b).
4. Staff has the burden of proof in this proceeding. 1 Tex. Admin. Code § 155.427. The standard of proof is by a preponderance of the evidence. *Granek v. Tex. State Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

5. The Department may revoke a license if the Department determines that the license holder has willfully violated an insurance law of this state or has engaged in fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(1), (5).
6. By making phone calls to Combined Insurance impersonating policyholders, Ms. Luengo engaged in fraudulent or dishonest acts or practices.
7. Ms. Luengo's misconduct constituted a willful violation of the Texas Insurance Code.
8. The Department should revoke Ms. Luengo's license. Tex. Ins. Code § 4005.101(b)(1), (5).
9. A license holder may be required to make complete restitution to each Texas resident, each Texas insured, and each entity operating in Texas that is harmed by a violation. Tex. Ins. Code § 82.053.
10. Staff did not meet its burden to show that Ms. Luengo should be ordered to provide restitution. Tex. Ins. Code § 82.053.

Signed April 20, 2023

ALJ Signature:



Daniel Wiseman

Presiding Administrative Law Judge

2023-8189

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Case Contacts

Name	BarNumber	Email	TimestampSubmitted	Status
Stephanie Andrews		Stephanie.Andrews@tdi.texas.gov	4/21/2023 11:15:10 AM	SENT
Leah Gillum		Leah.Gillum@tdi.texas.gov	4/21/2023 11:15:10 AM	SENT
Ginger Loeffler		Ginger.Loeffler@tdi.texas.gov	4/21/2023 11:15:10 AM	SENT
Chief Clerk		ChiefClerk@tdi.texas.gov	4/21/2023 11:15:10 AM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	4/21/2023 11:15:10 AM	SENT
Catarina Tapia		Catarina.Tapia@tdi.texas.gov	4/21/2023 11:15:10 AM	SENT
Veronica Carolina Luengo		[REDACTED]	4/21/2023 11:15:10 AM	SENT