

No. **2021-7024**

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

Date: 10/21/2021

Subject Considered:

Texas Department of Insurance

v.

Bryan Alan Long fka Bryan Alan Godfrey, and Croesus Financial Services, Inc.

SOAH Docket No. 454-20-4009.C

General remarks and official action taken:

The subjects of this order are the general lines agent license held by Bryan Alan Long and Croesus Financial Services, Inc. (Croesus). This order (1) revokes Mr. Long's license, (2) assesses administrative penalties against Mr. Long and Croesus, (3) orders that Mr. Long pay restitution to his victims, and (4) issues a cease-and-desist order against Croesus.

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 the Texas Department of Insurance (TDI) (1) revoke Mr. Long's license, (2) assess administrative penalties against Mr. Long and Croesus, and (3) order that Mr. Long pay restitution to his victims. A copy of the proposal for decision is attached as Exhibit A.

TDI Enforcement staff and Mr. Long filed exceptions to the administrative law judge's proposal for decision. In response to the exceptions, the administrative law judge revised the conclusions of law contained in the proposal for decision by adding a recommendation that TDI issue a cease-and-desist order against Croesus. A copy of the administrative law judge's response to exceptions is attached as Exhibit B.

TDI adopts the administrative law judge's proposed findings of fact and conclusions of law as revised consistent with Exhibit B.

COMMISSIONER'S ORDER

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Findings of Fact

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

Conclusions of Law

The Conclusions of Law contained in Exhibit A as revised consistent with Exhibit B are adopted by TDI and incorporated by reference into this order.

Order

It is ordered that:

Bryan Alan Long's general lines agent license with a life, accident, health, and HMO qualification and a property and casualty qualification is revoked;

Bryan Alan Long is assessed an administrative penalty of \$30,000;

Croesus Financial Services, Inc. is assessed an administrative penalty of \$5,000;

Bryan Alan Long must pay restitution of \$18,900 to the following entities in the stated amounts:

Trinity Meadows HOA: \$12,000;

Boron Capital, LLC: \$3,700;

Veracity USA, Inc.: \$2,700; and

Oliver Saddle Shop: \$500; and

Croesus Financial Services, Inc. must immediately cease and desist in acts that constitute the business of insurance.

Bryan Alan Long and Croesus Financial Services, Inc. must pay the administrative penalties assessed by this order within 90 days from the date of this order. The administrative penalties must be paid by cashier's check or money order made payable to the "State of Texas" and transmitted to the Texas Department of Insurance, Attn: Enforcement, Division 60851, P.O. Box 12030 AO-9999, Austin, Texas 78711-2030.

Bryan Alan Long must pay the restitution required by the order within 90 days from the date of this order. The restitution must be paid by cashier's check or money order made

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payable to the named entity in the amount specified by this order. TDI Enforcement staff will provide the applicable mailing addresses to which the restitution must be sent.

A copy of this order will be provided to law enforcement and/or other appropriate administrative agencies for further investigation as may be warranted.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:

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James Person, General Counsel

DocuSigned by:

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Justin Beam, Assistant General Counsel

TEXAS DEPARTMENT OF
INSURANCE,
Petitioner

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BEFORE THE STATE OFFICE

v.

OF

BRYAN ALAN LONG fka BRYAN
ALAN GODFREY, and CROESUS
FINANCIAL SERVICE, INC.,
Respondents

ADMINISTRATIVE HEARINGS

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SOAH DOCKET NO. 454-20-4009.C

**TEXAS DEPARTMENT OF
INSURANCE,
Petitioner**

v.

**BRYAN ALAN LONG fka BRYAN
ALAN GODFREY, and CROESUS
FINANCIAL SERVICE, INC.,
Respondents**

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BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Staff of the Texas Department of Insurance (Department) brought this action against Bryan Alan Long (Respondent) and Croesus Financial Services, Inc. (Croesus). Primarily, Staff alleges that Respondent misappropriated insurance money and was dishonest. Staff seeks to revoke Respondent’s insurance license, assess administrative penalties against him, and require him to pay restitution. Secondly, Staff alleges that Croesus engaged in insurance without a license. Staff seeks a cease and desist order and administrative penalties against Croesus. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) finds that Staff proved its allegations. The ALJ recommends that the Department revoke Respondent’s insurance license, assess \$30,000 in administrative penalties against him, and order him to pay \$18,900 in restitution. The ALJ also recommends that the Department assess Croesus a \$5,000 administrative penalty.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

Jurisdiction and notice are not disputed and are addressed in the findings of fact and conclusions of law. On January 12 and 13, 2021, the hearing on the merits was held by videoconference before ALJ Andrew Lutostanski. Sarah White and Cassie Teague represented Staff. Bryan Alan Long represented himself and Croesus. After the hearing, attorney Simon W. Hendershot, III appeared and represented Respondent. The record closed on March 12, 2021, after post-hearing briefing from the parties.

II. APPLICABLE LAW

A. Alleged Violations

Staff alleges three violations:

1. *Misappropriation.* An insurance agent may not misappropriate, convert to the license holder's own use, or illegally withhold money belonging to an insured, insurer, or beneficiary.¹

2. *Dishonesty.* An insurance agent may not engage in fraudulent or dishonest acts.²

3. *Unlicensed conduct.* A person may not engage in the business of insurance without a license.³ This includes receiving or collecting any consideration for insurance, including a premium, or soliciting, negotiating, procuring, or effectuating insurance or a renewal of insurance.⁴

Staff has the burden to prove its allegations by a preponderance of the evidence.⁵

B. Penalties for Violations

If a person has committed a violation, the Department has several disciplinary options and may use more than one.⁶

¹ Tex. Ins. Code § 4005.101(b)(4).

² *Id.* § 4005.101(b)(5).

³ *Id.* § 101.102.

⁴ *Id.* § 101.051(b)(4)(A), (6)(A).

⁵ 1 Tex. Admin. Code § 155.427.

⁶ Tex. Ins. Code § 82.052.

1. *Revoke a license.* The Department may revoke a license.⁷

2. *Administrative penalties.* The Department may assess an administrative penalty.⁸ Generally, an administrative penalty for a violation may not exceed \$25,000.⁹ The amount of the administrative penalty is based on several factors: (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation, and the hazard or potential hazard created to the health, safety, or economic welfare of the public; (2) the economic harm to the public interest or public confidence caused by the violation; (3) the history of previous violations; (4) the amount necessary to deter a future violation; (5) efforts to correct the violation; (6) whether the violation was intentional; and (7) any other matter that justice may require.¹⁰

3. *Restitution.* The holder of an authorization 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.¹¹

4. *Cease and desist.* The holder of an authorization may be required to cease and desist from activity that violates the Insurance Code or a rule adopted under it.¹²

⁷ Tex. Ins. Code §§ 82.051, 4005.102(2).

⁸ Tex. Ins. Code §§ 82.052(3), 84.021, 4005.102(4).

⁹ *Id.* § 84.022(a).

¹⁰ *Id.* § 84.022(b).

¹¹ *Id.* § 82.053(a).

¹² *Id.* § 82.052(2).

III. EVIDENCE**A. Steven Thumann's Testimony**

Mr. Thumann has been a licensed insurance agent for about 25 years. He works at the Thumann Agency, an insurance agency.

Mr. Thumann said Respondent worked at the Thumann Agency from about May 2015 to May 2018. Respondent spoke with clients, sent clients' applications for insurance to insurance carriers, received quotes from the carriers, and assembled the proposal and provided it to the client. Respondent's work required an insurance license, he said.

Mr. Thumann described the process of buying insurance as three steps—quote, bind, and issue. First, an agent works with a client and gets a quote from an insurance carrier for proposed insurance coverage. Second, if the client accepts the quote, the agent will bind the insurance carrier. Finally, the agent will arrange for a certificate of insurance. An agent completes a form with information provided by the insurance company. The certificate of insurance identifies the client, the cost, the policy limit, the endorsements, and the exclusions if any. Mr. Thumann said that, ultimately, a certificate of insurance binds the insurance carrier to a particular financial responsibility. Typically, insurance carriers provide the certificate of insurance to the insurance agent, who then gives it to the client (now the insured). The client can use the certificate of insurance to prove insurance coverage. He added that if a certificate of insurance is issued, it should be in the Thumann Agency's records.

Mr. Thumann discussed how his firm handled client payments. He said account managers like Respondent collected client payments and deposited them in the firm's sweep account. The client's money would then "sweep" through that account to the insurance company. Account managers were not allowed to deposit client monies into their own business or personal account; that was "strictly prohibited."

Mr. Thumann further explained that consumers may pay by submitting a check or by providing their bank information. If a client provides her bank information, the account manager prepares a draft check using the client's bank information, prints the draft check, and deposits the draft check in the Thumann Agency's sweep account. Mr. Thumann said draft checks were controlled documents kept in the office manager's top drawer, and account managers like Respondent had access to draft checks and the ability to write them.¹³ He said that after what happened with Respondent, the Thumann Agency no longer uses draft checks.

Mr. Thumann said that in about May 2018, while Respondent was on vacation, he learned about a bond that was signed in black rather than blue ink. He contacted the bond company and learned no bond had been issued: the bond was a forgery.¹⁴ He then traced the money for the bond and found that it went to Croesus—a bank account Respondent controlled. Respondent was Croesus's registered agent, and Croesus was using Respondent's mother's address.

Mr. Thumann said that about this time Respondent left the Thumann Agency without notice: Respondent never returned from vacation; "it was like he was just gone."¹⁵ The agency then received calls from clients, and he discovered there were no certificates of insurance for some clients. Mr. Thumann said he asked the clients for checks to see where their money went. He found that the clients' checks were made payable to various entities (e.g., Thumann Agency or Traveler's Insurance), but the checks were always stamped on the back and deposited into Croesus' bank account—Respondent's business account. Mr. Thumann said he knew the clients' money went to Respondent's bank account because Respondent's payroll check for his work at the Thumann Agency was deposited in that same account.¹⁶ He also pointed out that Respondent signed one of the checks.¹⁷ Mr. Thumann said he informed the Department of the matter in about June 2018.

¹³ See also Staff Ex. 11 at 128.

¹⁴ See also Staff Ex. 11 at 1042. Mr. Thumann also testified that the agency gave the bond clients their money back.

¹⁵ However, Mr. Thumann also said that Respondent previously told him he was offered a higher paying job somewhere else, and he tried to convince Respondent to stay at the Thumann Agency. Tr. 1 at 82-83.

¹⁶ See also Staff Ex. 11 at 1428.

¹⁷ See Staff Ex. 11 at 129.

Mr. Thumann was asked about the Thumann Agency's use of electronic signatures. He said previously the agency used DocuSign for electronic signatures, and email records also show the email address from which the signed document was sent. He said an electronic signature purporting to be Respondent's was on several documents and that consumers provided him emails showing that those documents were sent from Respondent's email address. Mr. Thumann acknowledged he did not take further steps to verify whether the electronic signatures were in fact Respondent's.¹⁸

Mr. Thumann agreed that the Thumann Agency charged fees. The agency typically charges a \$100 fee for processing a client's application for insurance, and the Thumann Agency collects about \$500 to \$1,000 a month in fees, he said. He added that compensation for account managers (e.g., Respondent) included incentives and bonuses and might include income from fees.

Mr. Thumann denied being involved with Croesus:

- He said he first found out about Croesus when he saw the clients' stamped checks;
- He denied having a business relationship with Croesus;
- He denied having access to Croesus's bank accounts;
- He denied having access to Croesus's endorsement stamp; and
- He denied using Croesus's endorsement stamp on the client's checks.

Mr. Thumann said that Respondent was responsible for accounts, completing proposals and certificates of insurance, and confirming the accuracy of information. He opined that Respondent would have known whether the consumers he worked with had valid insurance coverage. He further opined that Respondent's fraudulent and dishonest acts harmed the Thumann Agency because clients were upset and the agency's reputation suffered.

¹⁸ See Staff Ex. 11 at 148, 990.

B. Nora Amoedo's Testimony

Ms. Amoedo is on the board of the Trinity Meadows Homeowners' Association. She said Trinity Meadows sought insurance, and in July 2017 Respondent gave Trinity Meadows a bid—a proposal for insurance.¹⁹ Trinity Meadows selected the proposal Respondent provided, which was for insurance through Travelers. Trinity Meadows's board chair and Respondent signed the proposal.²⁰

Trinity Meadows then made payments on the insurance policy by check.²¹ For example, a September 2017 Trinity Meadows check was made payable to the Thumann Agency/Traveler's Insurance, and the endorsement on the back was stamped "Make Payable to Croesus Financial Services" and signed by Respondent.²² Ms. Amoedo explained that Trinity Meadows's checks were monthly payments for the insurance policy it had obtained through Respondent, the "For" line of the checks includes the account bill number for the Travelers insurance policy,²³ and the back of the checks were all endorsed with a stamp directing that the check be made payable to Croesus. In total, Trinity Meadows paid approximately \$20,000 towards the insurance policy, she said.

Ms. Amoedo said that Respondent also provided billing information and evidence of insurance. She said Respondent gave Trinity Meadows billing information stating where payments should be sent, but the billing address was not a "Travelers Remittance Center" but "some sort of shopping center."²⁴ Ms. Amoedo said Respondent also sent Trinity Meadows purported evidence of insurance bearing Respondent's name and signature.²⁵

¹⁹ *See generally* Staff Ex. 14 at 780-801.

²⁰ *See also* Staff Ex. 14 at 781.

²¹ Staff Ex. 14 at 624-34, 768-774.

²² Staff Ex. 14 at 626.

²³ *E.g.*, Staff Ex. 14 at 768, 778.

²⁴ *See* Staff Ex. 14 at 776 (address on payment coupon).

²⁵ *E.g.*, Staff Ex. 14 at 775.

Eventually, Trinity Meadows called Travelers and learned it had no insurance, she said. Travelers confirmed that it did not have an insurance policy for Trinity Meadows.²⁶

Ultimately, Trinity Meadows only received some of its money back. Ms. Amoedo testified that the Thumann Agency refunded Trinity Meadows about \$7,600,²⁷ but the rest of the money Trinity Meadows paid toward the insurance policy was not recovered.

C. LaChrista Eccles's Testimony

Ms. Eccles is the Vice President of Operations at Boron Capital (Boron), an investment firm. Ms. Eccles said Boron wanted property insurance, and she found the Thumann Agency online and then spoke to Respondent. She worked with Respondent to obtain an insurance policy for Boron and communicated with Respondent by email and by phone.

In January 2018, Respondent provided Boron a proposal for insurance through Nautilus Insurance.²⁸ The insurance agreement included a financing agreement signed by Boron and Respondent,²⁹ Boron's bank account information,³⁰ and authorized a first payment and then monthly payments to be taken from Boron's bank account.³¹

After Boron signed the agreement, Ms. Eccles emailed Respondent and requested confirmation that the insurance was in effect. Respondent replied and provided "evidence of the commercial property insurance."³² The evidence of insurance identified Boron and the insurance terms, and Respondent signed it, certifying that the insurance policy had been "issued and

²⁶ Staff Ex. 19.

²⁷ *See also* Staff Ex. 14 at 624.

²⁸ *See also* Staff Ex. 13 at 432.

²⁹ Staff Ex. 13 at 437.

³⁰ Staff Ex. 13 at 437.

³¹ Staff Ex. 13 at 439.

³² Staff Ex. 13 at 386.

delivered” and the agreement was a “bona fide and legal transaction.”³³ Ms. Eccles believed Boron had an active insurance policy, she said.

A few months later, Respondent emailed Ms. Eccles and told her he was at another firm but “happy to continue helping service your account” by processing Boron’s next monthly payment.³⁴ She told him to process the next month’s payment.³⁵ She did not hear from him again.

Ultimately, Boron learned that it did not have an insurance policy, Ms. Eccles said. Insurance company records for Nautilus Insurance show Boron did not have an insurance policy.³⁶ Ms. Eccles said that Boron paid about \$3,700 towards the insurance policy.³⁷

D. Amy Fincher’s Testimony

Ms. Fincher is the Financial Controller for Veracity USA, Inc. (Veracity), a firm that sells parts for security cameras.

Ms. Fincher said that in about August 2017 Veracity sought insurance. Respondent worked at the Thumann Agency at the time, and she worked with him to get insurance. Respondent provided her with a proposal for insurance,³⁸ and Respondent initialed and signed the agreement, attesting that Veracity had insurance coverage through AmGuard Insurance.³⁹ The agreement included Veracity’s bank account information and authorized payments.⁴⁰ Ms. Fincher said Veracity believed it had insurance, and Veracity paid about \$2,700 towards the insurance policy.⁴¹

³³ Staff Ex. 13 at 390.

³⁴ Staff Ex. 13 at 400-01.

³⁵ Staff Ex. 13 at 400.

³⁶ Staff Ex. 18A-B.

³⁷ *See also* Staff Ex. 13 at 423.

³⁸ Staff Ex. 12 at 285-300.

³⁹ Staff Ex. 12 at 295.

⁴⁰ Staff Ex. 12 at 297.

⁴¹ Staff Ex. 12 at 271.

Bank records show Veracity's payments.⁴² For example, a November 2017 draft check shows Veracity paid \$365.78 to Croesus for insurance.⁴³ Respondent's signature is on the back along with the note "For Deposit Only."⁴⁴ Another check shows Veracity paid AmGuard Insurance; the check is endorsed with a stamp stating, "Make Payable to Croesus Financial Services. For Deposit Only."⁴⁵ Ms. Fincher testified that she did not know what Croesus was, so she asked Respondent, and he said Croesus was "a third-party billing company for the insurance."⁴⁶

Ms. Fincher said that she learned Veracity had no insurance with AmGuard Insurance when she contacted AmGuard Insurance to update Veracity's bank account information with them. AmGuard Insurance confirmed that it had no records of providing insurance to Veracity.⁴⁷ Ms. Fincher said Veracity did not get a refund from the Thumann Agency but now uses their services.

E. Aaron Young's Testimony

Mr. Young is the General Manager of Bandy, Inc. (Bandy), a furniture company. Mr. Young said Bandy wanted a workers compensation and employee's liability insurance policy. Bandy sought bids through the Thumann Agency and others, and Respondent provided him with a proposal for insurance coverage through Travelers.⁴⁸ Bandy selected that bid, provided its bank account information, and paid about \$5,400 towards the insurance policy. Draft checks show that payments from Bandy to Travelers were endorsed on the back with a stamp directing payment to Croesus for deposit only.⁴⁹

⁴² Staff Ex. 12 at 272-83.

⁴³ Staff Ex. 12 at 273.

⁴⁴ Staff Ex. 12 at 273.

⁴⁵ *E.g.*, Staff Ex. 12 at 275.

⁴⁶ *See also* Staff Ex. 11 at 152.

⁴⁷ Staff Ex. 16.

⁴⁸ *See also* Staff Ex. 11 at 360.

⁴⁹ Staff Ex. 11 at 358-59.

Bandy believed it had insurance through Travelers, Mr. Young said, but he later learned Bandy did not have insurance with Travelers. Travelers confirmed it had no records of a workers compensation policy for Bandy.⁵⁰ Mr. Young said Bandy filed a forgery claim with its bank, and Bandy received its money back from the bank.

F. Richard Velting's Testimony

Mr. Velting has been a licensed insurance agent since 1982. He is a senior account manager at Jordan & Jordan Insurance Group (Jordan). From late 2018 to June 2019, Respondent worked for Jordan.

Mr. Velting was the account manager at Jordan who worked with Respondent. He described Respondent as a "producer," meaning he met customers, discovered their insurance needs, and gave that information to the account manager, who sent the information to insurance carriers for quotes.

One time Mr. Velting received a call from a customer, Outdoor Master. Outdoor Master told him it had made payments but had no evidence of insurance coverage. Mr. Velting said he investigated the matter, Respondent was the only person working on the Outdoor Master account, and Respondent made the investigation difficult: Respondent provided his laptop but had "wiped all the company records" from it. So Mr. Velting had to work with Outdoor Master and the insurance carriers to determine what had happened.

An April 2019 email indicates Respondent provided Outdoor Master a proposal for insurance coverage from May 2019 to May 2020 through Ohio Casualty, a part of Liberty Mutual.⁵¹ The proposal for insurance appears in Jordan's customary format and has Respondent's name on it as Jordan's "regional manager,"⁵² although that was not his title.

⁵⁰ Staff Ex. 17.

⁵¹ Staff Ex. 15 at 1158, 1170-89.

⁵² Staff Ex. 15 at 1186.

According to a May 2019 email, Respondent provided Outdoor Master with payment instructions.⁵³ The instructions directed Outdoor Master to make payment to a Croesus's bank account with Chase Bank.⁵⁴ Mr. Velting said this was not Jordan's bank information: Jordan had a different bank, different account, different SWIFT Code, and different routing number. Rather, Outdoor Master was told to deposit the money in the same Chase Bank account where Respondent elected to have his Jordan paycheck deposited.⁵⁵ Bank records show that Outdoor Master made three payments to the Croesus account with Chase Bank.⁵⁶

A June 2019 email from Liberty Mutual to Respondent stated that Outdoor Master's application for insurance was denied.⁵⁷ Mr. Velting explained that Liberty Mutual, of which Ohio Casualty is a part, denied coverage, so Ohio Casualty could not have provided a proposal for insurance. Outdoor Master did not have insurance coverage, Mr. Velting explained.

Ultimately, Jordan helped Outdoor Master secure legitimate insurance, although at a cost of about \$4,000 higher than was originally quoted in the proposal Respondent had previously provided. Jordan also reimbursed Outdoor Master for its payments (about \$6,600) towards the phony insurance. In total, Jordan lost about \$11,000, Mr. Velting said. Mr. Velting opined Respondent was untruthful and lacked honesty and integrity.

G. Respondent's Testimony

Respondent is a licensed insurance agent. Since 2007, he has held a general lines agent license with a life, accident, health, and HMO qualification, and since 2012 he has held a property and casualty qualification. Respondent was formerly known as Bryan Alan Godfrey.

⁵³ Staff Ex. 15 at 1157-58.

⁵⁴ Staff Ex. 15 at 1162.

⁵⁵ Staff Ex. 15 at 1450.

⁵⁶ Staff Ex. 15 at 1171.

⁵⁷ Staff Ex. 15 at 1237

In 2014, Respondent submitted a certificate of formation for Croesus to the Texas Secretary of State.⁵⁸ Respondent was listed as the registered agent, director, and organizer. Respondent is Croesus's only registered agent.⁵⁹ From July 2014 to July 2016, Croesus held a general lines license with life, accident, health, and HMO qualification and a property casualty qualification.⁶⁰ Since July 2016, Croesus has not held an insurance license.

Respondent testified about Croesus's bank accounts. He said Croesus had one account at Bank of America and another at Chase Bank. For the Bank of America account, Respondent said he and one other person had access to that account,⁶¹ and the Thumann Agency deposited his earnings there. For the Chase Bank account, Respondent admitted that he was a signatory on the account and that his Jordan paychecks were deposited there.

Respondent acknowledged that client funds were deposited into both of Croesus's bank accounts:

- *Veracity*. Respondent confirmed that while at the Thumann Agency he worked as an insurance agent for Veracity. He acknowledged that he signed the back of a November 3, 2017 draft check from Veracity for \$365.78 where the subject line indicates the check was for insurance.⁶² On November 6, 2017, \$365.78 was deposited into Croesus's Bank of America account.⁶³
- *Bandy*. A March 23, 2018 draft check from Bandy for \$4,054.40 for insurance was endorsed on the back with a stamp directing payment to Croesus.⁶⁴ Days later, \$4,054.40 was deposited into Croesus's Bank of America account.⁶⁵ The same

⁵⁸ Staff Ex. 23a at 1582.

⁵⁹ Staff Exs. 23a & b.

⁶⁰ Staff Ex. 7 at 1573.

⁶¹ Account documents only list Respondent on the account. Staff Ex. 9 at 7-8.

⁶² Staff Ex. 12 at 273.

⁶³ Staff Ex. 9 at 22.

⁶⁴ Staff Ex. 11 at 358.

⁶⁵ Staff Ex. 9 at 31.

amount from another draft check from Bandy was also deposited in Croesus's Bank of America account.⁶⁶

- *Trinity Meadows*. Respondent acknowledged that he signed the back of a September 22, 2017 draft check from Trinity Meadows to the Thumann Agency/Travelers Insurance for \$2,909.58.⁶⁷ Days later, \$2,909.58 was deposited in Croesus's Bank of America account.⁶⁸
- *BizFlix*. A May 17, 2018 draft check from BizFlix, LLC to Scottsdale Insurance for \$3,961.90 indicating the payment was for insurance was endorsed on the back for payment to Croesus.⁶⁹
- *Outdoor Masters*. Respondent acknowledged that payments made by Outdoor Masters matched deposits into Croesus's Chase bank account.⁷⁰

Respondent said that Croesus's bank accounts were never used for personal expenses. Bank records show that Croesus's bank account was used to pay a tanning service, a jeweler, and his wife's mortgage.⁷¹

Respondent provided the following explanations about some of the client accounts:

- *Veracity*. Respondent said the Thumann Agency had "already found policies for Veracity."
- *Bandy*. Respondent said Bandy's money was refunded when the insurance could not be placed, and any funds deposited in Croesus's account were for operating expenses, fees, and other agreed items. He said no insurance policy was issued and all Bandy's money was refunded. Croesus's bank records show a returned item of about \$5,400 (the amount Bandy paid).⁷²

⁶⁶ Compare Staff Ex. 11 at 359 with Staff Ex. 9 at 38 (\$1,332 transaction).

⁶⁷ Staff Ex. 14 at 626.

⁶⁸ Staff Ex. 9 at 19.

⁶⁹ Staff Ex. 9 at 814.

⁷⁰ Compare Staff Ex. 15 at 1171-73 with Ex. 10 at 102, 110, 114.

⁷¹ Staff Ex. 9 at 40, 42; Staff Ex. 10 at 102.

⁷² Staff Ex. 9 at 42.

- *Bizflix*. Respondent said Bizflix's money was refunded because "the fees and services were not completed." Croesus's bank records show an outbound transfer for \$3,961.90 that mentions Bizflix.⁷³

Respondent discussed Croesus's business relationship with Mr. Thumann. Respondent said the Thumann Agency had a compensation agreement to pay Croesus a percentage of client fees. Respondent said the Thumann Agency collected about \$7,000 to \$9,000 a month in fees, a percentage of those fees went to Croesus for operating expenses and other things, and he did not closely examine deposits from the Thumann Agency because he trusted they were for business reasons.

Respondent testified that Mr. Thumann was thoroughly involved in what happened:

- Mr. Thumann had access to Croesus's bank accounts;
- Mr. Thumann purchased stock in Croesus;
- Mr. Thumann deposited money into Croesus's bank account for Croesus's operating expenses and to purchase shares in Croesus;
- Mr. Thumann had access to draft checks and the Croesus endorsement stamp;
- Mr. Thumann used the Croesus endorsement stamp and then deposited checks in Croesus's account;
- For checks with Respondent's signature, Mr. Thumann had instructed Respondent to deposit the checks "for the services and the fees he owed," and Respondent "didn't know any better" so "signed it like any other check."

Finally, Respondent discussed Croesus's business. He acknowledged that Croesus has not held an insurance license since 2016: Croesus is a consulting and marketing firm that helps insurance agents develop their business. He said Thumann Agency and Jordan had business dealings with Respondent and Croesus, and the funds deposited in Croesus's account by Thumann Agency and Jordan were consulting or service fees paid for Croesus's services rendered in "finding

⁷³ Staff Ex. 9 at 42.

and attracting high-demand clients.” He denied that the funds deposited by Thumann Agency and Jordan were customers’ insurance monies.

H. Jodie Delgado’s Testimony

Ms. Delgado works for the Department. She oversees compliance for current licensees. Previously, she was an insurance agent.

Ms. Delgado said Respondent has held an insurance license since 2007, and Croesus held a general lines agency license from July 2014 to July 2016 and none since then.

Ms. Delgado explained that the Department seeks to protect the public, and dishonest insurance agents can harm consumers. She testified that Respondent engaged in fraudulent and dishonest practices, misappropriated insurance premiums, and operated a business without the proper license. She noted that Respondent gave consumers fraudulent documents, mislead consumers to believe they had insurance when they did not, and deposited insurance premiums into a non-licensed account rather than providing them to insurance carriers. She said Respondent committed multiple violations, committed repeated instances of misconduct, subjected consumers to harm through possible losses due to lack of insurance, and hurt the insurance industry by undermining public trust. She recommended that Respondent’s insurance license be revoked.

Ms. Delgado also said that the business of insurance includes receiving and transmitting applications for insurance and receiving insurance premium payments. She said Croesus engaged in unlicensed conduct by accepting insurance premium payments.

I. Documentary Evidence

1. Oliver Saddle Shop

No witnesses testified about what occurred involving Oliver Saddle Shop, but documents were admitted into evidence. Mr. Thumann stated that the Thumann Agency gathered the

documents as part of its internal investigation. An email from an account manager at the Thumann Agency to Mr. Thumann states that Respondent collected a client's money, forged an insurance policy for a one-day event in July 2017, and no insurance was provided.⁷⁴ A July 2017 certificate of liability insurance states that Oliver Saddle Shop in Amarillo, Texas secured insurance with a particular policy number through the United States Liability Insurance Company for a rodeo held on July 22, 2017.⁷⁵ The documents include Respondent's name, contact information, and a digital signature in his name.⁷⁶ Oliver Saddle Shop authorized a payment of \$504 for the insurance.⁷⁷ A record's custodian with the United States Liability Insurance Company attested that it had found no records pertaining to Oliver Saddle Shop's event.⁷⁸

2. AC3 Operating, LLC

According to a note on Thumann Agency letterhead, Respondent accepted payment from AC3 Operating, produced a forged bond and provided it to the Railroad Commission, and then AC3 Operating's owner filed a police report, and Respondent refunded the money for the bond.⁷⁹ Mr. Thumann testified briefly that he contacted the bonding company and was told there was no bond. He then traced the money for the bond and found that it went to Croesus. Records show that a bond for AC3 Operating was submitted to the Railroad Commission.⁸⁰ The bond was supposedly issued by the Texas Bonding Company,⁸¹ but an affidavit from a custodian of records for the bonding company states that it had no records of that bond.⁸² A PayPal receipt shows that, through "bryan.long11@outlook.com," Croesus refunded \$8,137.50 to AC3 Operating's owner.⁸³

⁷⁴ Staff Ex. 11 at 979.

⁷⁵ Staff Ex. 11 at 980-83.

⁷⁶ Staff Ex. 11 at 980.

⁷⁷ Staff Ex. 11 at 993.

⁷⁸ Staff Ex. 11 at 1037.

⁷⁹ Staff Ex. 11 at 1042.

⁸⁰ Staff Ex. 11 at 1044-47.

⁸¹ Staff Ex. 11 at 1069.

⁸² Staff Ex. 22.

⁸³ Staff Ex. 11 at 1041.

3. Bizflix

In May 2018, Respondent communicated through email with Bizflix about an insurance policy.⁸⁴ Respondent said he received an application and payment and would submit it to the insurance company.⁸⁵ About two weeks later, Bizflix asked for confirmation of its insurance policy with Scottsdale Insurance Company.⁸⁶ Respondent said the insurance policy was active, and he could provide a certificate of insurance showing coverage.⁸⁷ A certificate of insurance with Respondent's contact information notes that Bizflix had insurance through Scottsdale Insurance Company.⁸⁸ A May 17, 2018 draft check of the type used at the Thumann Agency shows that Bizflix paid \$3,961.90 to Scottsdale Insurance Company for general liability insurance.⁸⁹ The check has an endorsement stamp on the back, stating "Make Payable to Croesus Financial For Deposit Only."⁹⁰ An insurance policy for Bizflix through Scottsdale Insurance Company is signed by an individual named Blake Stock and contains no reference to Respondent.⁹¹ A custodian of records at Scottsdale Insurance attested that the company had no records of the Bizflix insurance policy.⁹² Respondent testified that Bizflix's money was refunded because "the fees and services were not completed." Croesus's bank records show a July 3, 2018 outbound transfer for \$3,961.90 mentioning Bizflix.

⁸⁴ Staff Ex. 11 at 806-812.

⁸⁵ Staff Ex. 11 at 810-11.

⁸⁶ Staff Ex. 11 at 810.

⁸⁷ Staff Ex. 11 at 809.

⁸⁸ Staff Ex. 11 at 887.

⁸⁹ Staff Ex. 11 at 814.

⁹⁰ Staff Ex. 11 at 814.

⁹¹ Staff Ex. 11 at 815-886.

⁹² Staff Ex. 20.

IV. ANALYSIS**A. Respondent misappropriated insurance monies and was dishonest.**

A preponderance of the evidence shows that Respondent violated Texas Insurance Code § 4005.101(b)(4) because he misappropriated insurance money and violated § 4005.101(b)(5) because he was dishonest.

The evidence shows Respondent misappropriated insurance money from customers and left them without insurance. Three customers testified credibly that they worked with Respondent to secure insurance, paid for insurance, and did not get it. A fourth witness testified credibly that this happened to her homeowners' association. A fifth witness said that this happened to one of his firm's customers. Documents show that Respondent took the customers' bank information or told them where to make payments; customers' insurance payments went into bank accounts Respondent controlled; Respondent's personal earnings were deposited in the same bank accounts; and customers never received the insurance they paid for. Although the matters of Oliver Saddle Shop's rodeo insurance, AC3 Operating's bond, and Bixflix's insurance mostly rely on documentary evidence, the preponderant evidence shows Respondent misappropriated funds in those instances as well.

Respondent's testimony was not credible. His explanation for how the customers' money ended up in bank accounts he controlled was weak. He claimed the customers' insurance funds were compensation for his services or for operation or ownership of Croesus, but the amounts at issue did not correspond to any compensation or ownership agreement but were what customers paid for insurance. Respondent also blamed Mr. Thumann, but the preponderance of the evidence points to Respondent. Customers testified that they worked with Respondent; insurance documents have Respondent's name on them; and Respondent signed a check directing a customer's money to a bank account he controlled. And the problems with customers making payments to accounts controlled by Respondent and not receiving insurance followed Respondent. Notably, Respondent emailed a customer that he left the Thumann Agency but would still process an insurance payment, and Mr. Velting testified that Respondent misled a customer and misappropriated insurance

money later while working for Jordan. Respondent did not explain how Mr. Thumann was involved in these later events, nor does it make sense that he was. There were other things as well. Respondent said he refunded the Bizflix money because “the fees and services were not completed,” but in an email, he admitted receiving the insurance funds and said the policy was in effect. And Respondent claimed that Croesus’s funds were only used for business reasons, but his testimony about Croesus’s business was nebulous, and no documents showed Croesus performs legitimate business in sales consulting. In the end, Respondent has no credible explanation for two facts: customers’ insurance monies were deposited into bank accounts he controlled, and the customers did not receive the insurance they paid for.

The evidence established Respondent was dishonest. He gave customers fake documents indicating they had insurance. He gave a customer a false billing address for an insurance company. He lied to a customer who asked why its insurance payment was not deposited with the insurance company but with Croesus, saying Croesus provided “third-party billing.”

In short, the evidence shows that Respondent repeatedly violated insurance laws.

B. Croesus practiced insurance without a license.

The evidence shows that customers’ insurance premiums were deposited in Croesus’s bank account. This constitutes the practice of insurance.⁹³ Because Croesus lacked an insurance license when the premiums were deposited, Croesus violated § 101.102 of the Texas Insurance Code.⁹⁴

⁹³ Tex. Ins. Code § 101.051(b)(4)(A).

⁹⁴ *See also* Tex. Ins. Code § 101.101.

C. Recommended Sanctions

Because he violated an insurance law, Respondent's license may be revoked.⁹⁵ Respondent's license should be revoked. He is dishonest.

Because he violated an insurance law, Respondent may be assessed an administrative penalty.⁹⁶ The penalty may not be more than \$25,000 per violation.⁹⁷ Here, Respondent committed multiple violations. To determine the penalty amount, the ALJ considers the factors in § 84.022(b) of the Texas Insurance Code:

- The violations were serious. Respondent took money from consumers and subjected them to potential losses due to lack of insurance.
- The violations caused economic harm and loss of public confidence in insurance agents. Excluding refunds, Respondent misappropriated approximately \$33,000 from customers. Other insurance agents refunded some of that money to the customers to keep their business and trust.
- Although Respondent has no history of previous violations, he committed several violations here. The violations involved several customers and occurred when he worked at two separate firms.
- A significant administrative penalty is needed to deter future violations. Respondent committed many violations, expressed no remorse for his conduct, and falsely blamed another insurance agent for the violations.
- Respondent refunded money to three customers. He refunded approximately \$8,000 to AC3 Operating, \$5,400 to Bandy, and \$4,000 to Bizflix.
- Respondent's violations were intentional. He falsified documents and lied to deceive customers.

After considering the relevant factors, the ALJ recommends that Respondent be assessed a \$30,000 administrative penalty.

⁹⁵ Tex. Ins. Code §§ 82.051, 4005.102(2).

⁹⁶ Tex. Ins. Code §§ 82.052(3), 84.021, 4005.102(4).

⁹⁷ *Id.* § 84.022(a).

Because he violated an insurance law, Respondent may be required to pay restitution to each Texas resident, each Texas insured, and each entity operating in Texas that is harmed by a violation.⁹⁸ The ALJ recommends that Respondent be required to pay the following in restitution:

- Trinity Meadows - \$12,000
- Boron - \$3,700
- Veracity - \$2,700
- Oliver Saddle Shop - \$500

Croesus's violation was also serious because it involved customer's insurance money and the risk of economic harm to the public. Indeed, here Croesus's accounts were used in a scheme to misappropriate customers' insurance premiums. Croesus's violation was intentional because Croesus previously had an insurance license, knew one was needed, yet continued to practice insurance without one. However, Croesus has no prior violations, and Croesus is not an independent firm but a company Respondent directed and controlled. The ALJ recommends that Croesus be assessed a \$5,000 administrative penalty. The ALJ does not recommend a cease and desist order against Croesus because Respondent directed and controlled Croesus and with the revocation of Respondent's insurance license further action against Croesus appears unnecessary.

In sum, the ALJ recommends that Respondent's license be revoked, he be assessed a \$30,000 administrative penalty, and he be ordered to pay \$18,900 in restitution. The ALJ also recommends that Croesus be assessed a \$5,000 administrative penalty.

⁹⁸ *Id.* § 82.053(a).

V. FINDINGS OF FACT

Background

1. Respondent Bryan Alan Long (formerly known as Bryan Alan Godfrey) is a licensed insurance agent. Since 2007, he has held a general lines agent license with a life, accident, health, and HMO qualification, and since 2012 he has held a property and casualty qualification.
2. In 2014, Respondent formed Croesus Financial Services, Inc. (Croesus). Respondent directed Croesus, controlled its operation, and managed its bank accounts.
3. From July 2014 to July 2016, Croesus held a general lines license with life, accident, health, and HMO qualification and a property casualty qualification. Since July 2016, Croesus has not held an insurance license.
4. From about May 2015 to May 2018, Respondent worked at the Thumann Agency, an insurance agency. Respondent's personal earnings for his work at the Thumann Agency were deposited into Croesus's Bank of America bank account.
5. From about late 2018 to June 2019, Respondent worked at Jordan & Jordan, an insurance agency. Respondent's personal earnings for his work at Jordan & Jordan were deposited into Croesus's Chase Bank bank account.

Trinity Meadows

6. In July 2017, Respondent worked with the Trinity Meadows Homeowners' Association (Trinity Meadows) to help it secure insurance. Respondent provided Trinity Meadows with a proposal for insurance, which Trinity Meadows accepted.
7. Respondent gave Trinity Meadows a false billing address where insurance payments should be sent.
8. Trinity Meadows paid \$20,000 on its insurance policy.
9. Respondent endorsed the back of Trinity Meadows's checks as payable to Croesus and deposited the insurance payments into Croesus's bank account.
10. Respondent gave Trinity Meadows a fake certificate of insurance indicating that Trinity Meadows had insurance when it did not.
11. Respondent misappropriated the \$20,000 Trinity Meadows paid for insurance.

12. The Thumann Agency refunded Trinity Meadows about \$7,600. Trinity Meadows did not recover the rest of the money it paid for insurance.

Boron Capital

13. Boron Capital (Boron) worked with Respondent to secure insurance.
14. In January 2018, Respondent provided Boron with a proposal for insurance. Boron accepted the proposal, provided its bank account information, and authorized that insurance payments be withdrawn from its account.
15. Respondent gave Boron a false certificate of insurance indicating that Boron had insurance when it did not.
16. In June 2018, while no longer working for the Thumann Agency, Respondent told Boron he could manually process Boron's monthly insurance payments.
17. Boron paid about \$3,700 for insurance that Boron did not receive.
18. Respondent misappropriated the \$3,700 Boron paid for insurance. Boron has not recovered the money.

Veracity

19. In August 2017, Veracity USA, Inc. (Veracity) worked with Respondent to secure insurance. Respondent provided Veracity with a proposal for insurance, which Veracity accepted. The agreement included Veracity's bank account information and authorized insurance payments.
20. Respondent falsified insurance documents and falsely informed Veracity that it had insurance when it did not.
21. Veracity paid about \$2,700 towards the insurance.
22. Respondent deposited Veracity's insurance payments in Croesus's bank account.
23. Veracity asked why its insurance payments were deposited with Croesus. Respondent lied and said that Croesus was a "third-party billing company."
24. Respondent misappropriated the \$2,700 Veracity paid for insurance. Veracity has not recovered the money.

Bandy

25. In about March 2018, Bandy, Inc. (Bandy) worked with Respondent to secure insurance. Respondent provided Bandy with a proposal for insurance, which Bandy accepted. Bandy provided its bank account information and paid about \$5,400 towards the insurance.
26. Respondent falsified insurance documents and falsely informed Bandy it had insurance when it did not.
27. Respondent deposited Bandy's \$5,400 in insurance payments in Croesus's bank account.
28. Bandy filed a forgery claim with its bank and recovered its money through the bank.
29. Respondent repaid Bandy through the bank because of the forgery claim.

Outdoor Master

30. In April 2019, while working at Jordan & Jordan, Respondent provided Outdoor Master with a proposal for insurance, which Outdoor Master accepted.
31. Respondent falsified insurance documents.
32. Respondent instructed Outdoor Master to make insurance payments to Croesus's bank account.
33. Outdoor Master paid approximately \$6,600 toward the insurance policy. The money went into Croesus's bank account.
34. Outdoor Master did not receive insurance in exchange for the payments.
35. Respondent misappropriated the \$6,600 Outdoor Master paid for insurance.
36. Jordan & Jordan reimbursed Outdoor Master the \$6,600 it paid for insurance coverage.

Oliver Saddle Shop

37. Respondent assisted Oliver Saddle Shop with getting insurance for a rodeo in July 2017.
38. Respondent falsified insurance documents indicating that Oliver Saddle Shop had insurance for the rodeo when it did not.
39. Oliver Saddle Shop paid \$500 for the insurance.

40. Respondent misappropriated the \$500 Oliver Saddle Shop paid for insurance.

AC3 Operating, LLC

41. Respondent accepted about \$8,000 from AC3 Operating, LLC (AC3) for a bond.

42. Respondent forged the bond. Respondent's forgery was discovered, and AC3 reported the matter to the police.

43. AC3's money for the bond was deposited in Croesus's bank account.

44. Respondent refunded the money to AC3 after AC3 reported the matter to the police.

Bizflix

45. In May 2018, Respondent assisted Bizflix, LLC (Bizflix) with securing insurance.

46. Respondent deposited Bizflix's insurance premium into Croesus's bank account.

47. Respondent lied to Bizflix and said that its insurance policy was in effect when it was not. Respondent also falsified a certificate of insurance indicating that Bizflix had insurance when it did not.

48. In July 2018, Respondent refunded Bizflix's insurance premium.

Penalty Factors

49. Respondent committed serious violations. He misappropriated insurance premiums paid by customers and never provided them to insurance carriers. Respondent's acts subjected customers to potential losses due to lack of insurance.

50. Respondent's acts caused economic harm and loss of public confidence in insurance agents. Excluding refunds, Respondent misappropriated approximately \$33,000 from customers. Other insurance agents refunded some of the money to customers to keep their business and trust.

51. Although Respondent has no prior violations, he committed several violations here. The violations involved several customers and occurred when he worked at two separate insurance firms.

52. Respondent committed many violations, expressed no remorse for his conduct, and blamed another insurance agent for what happened.

53. A significant administrative penalty is needed to deter a future violation.
54. Respondent refunded money to three customers. He refunded approximately \$8,000 to AC3 Operating, \$5,400 to Bandy, and \$4,000 to Bizflix.
55. Croesus received or collected insurance premiums.
56. Responsibly handling insurance money is important because it involves risk of economic harm to the public.
57. Croesus intentionally practiced insurance without a license.
58. Croesus has no prior violations.

Procedural History

59. On June 18, 2020, Staff of the Texas Department of Insurance (Department) sent a notice of hearing to Respondent and Croesus.
60. On September 1, 2020, State Office of Administrative Hearings (SOAH) Order No. 2 was sent to Respondent and Croesus.
61. Together, the notice of hearing and SOAH Order No. 2 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 sections of the statutes and rules involved; and 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.
62. On January 12 and 13, 2021, SOAH Administrative Law Judge (ALJ) Andrew Lutostanski convened a videoconference hearing on the merits. Attorneys Sarah White and Cassie Teague represented Staff. Bryan Alan Long represented himself and Croesus. After the hearing, attorney Simon W. Hendershot, III appeared and represented Respondent. The record closed on March 12, 2021, after post hearing briefing from the parties.

VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.101, 4005.101, 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. Respondent and Croesus received timely and sufficient notice of the hearing. Tex. Gov't Code §§ 2001.051-.052.; Tex. Ins. Code § 4005.104(b).
4. Staff had the burden of proof. 1 Tex. Admin Code § 155.427.
5. An insurance agent may not misappropriate, convert to the license holder's own use, or illegally withhold money belonging to an insured, insurer, enrollee, or beneficiary. Tex. Ins. Code § 4005.101(b)(4).
6. Respondent violated § 4005.101(b)(4) of the Texas Insurance Code.
7. An insurance agent may not engage in fraudulent or dishonest acts. Tex. Ins. Code § 4005.101(b)(5).
8. Respondent violated § 4005.101(b)(5) of the Texas Insurance Code.
9. A person may not engage in the business of insurance without a license. Tex. Ins. Code. § 101.102. The business of insurance includes receiving or collecting any consideration for insurance, including a premium, or soliciting, negotiating, procuring, or effectuating insurance or a renewal of insurance. *Id.* § 101.051(b)(4)(A), (6)(A).
10. Croesus violated § 101.102 of the Texas Insurance Code.
11. The Department may revoke a license. Tex. Ins. Code §§ 82.051, 4005.102(2).
12. Respondent's insurance licenses should be revoked.
13. The Department may assess an administrative penalty. Tex. Ins. Code §§ 82.052(3), 84.021, 4005.102(4). Generally, an administrative penalty for each violation may not exceed \$25,000. *Id.* § 84.022(a). The amount of an administrative penalty is based on several factors. *Id.* § 84.022(b).
14. Based on the factors set forth in Texas Insurance Code § 84.022(b), Respondent should be assessed an administrative penalty of \$30,000, and Croesus should be assessed an administrative penalty of \$5,000.
15. The holder of an authorization may be required to make 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(a).
16. Respondent should pay restitution of \$18,900 as follows: Trinity Meadows, \$12,000; Boron, \$3,700; Veracity, \$2,700; Oliver Saddle Shop, \$500.
17. The holder of an authorization may be required to cease and desist from activity that violates the Insurance Code or a rule adopted under it. Tex. Ins. Code § 82.052(2).

18. A cease and desist order should not be issued.

SIGNED April 28, 2021.

/s/ Andrew Lutostanski
Administrative Law Judge
State Office of Administrative Hearings

2021-7024

FILED
454-20-4009
6/7/2021 10:22 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK



ACCEPTED
454-20-4009
06/07/2021 10:26 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

Exhibit B

June 7, 2021

Kent Sullivan
Commissioner of Insurance
Texas Department of Insurance
333 Guadalupe, Tower 1, 13th Floor, Mail Code 113-2A
Austin, Texas 78714

VIA E-FILE TEXAS

RE: Docket No. 454-20-4009.C; *Texas Department of Insurance v. Bryan Alan Long fka Bryan Alan Godfrey, and Croesus Financial Services, Inc.*

Dear Commissioner Sullivan:

The proposal for decision concludes that Bryan Alan Long misappropriated insurance money and was dishonest and that Croesus Financial Services engaged in insurance without a license. It recommends that the Department revoke Mr. Long's insurance license, assess \$30,000 in administrative penalties against him, and order him to pay \$18,900 in restitution. It also recommends that the Department assess Croesus a \$5,000 administrative penalty. The parties filed exceptions to the proposal for decision. After considering the parties' arguments, the ALJ amends the proposal for decision to also recommend that a cease and desist order be issued against Croesus.

Staff's Exceptions

Staff points out additional authority not mentioned in the proposal for decision that allows the Commissioner to issue a cease and desist order if a person has violated chapter 101 of the Texas Insurance Code. Tex. Ins. Code §§ 101.103(a)(1), .153. Staff argues that a cease and desist order should be issued against Croesus under this additional authority based on Croesus's past conduct.

The ALJ agrees that under §§ 101.103(a)(1) and 101.153 a cease and desist order may be issued against Croesus. Because the proposal for decision finds that Croesus violated chapter 101 of the Texas Insurance Code and specifically § 101.102, the Commissioner may issue a cease and desist order against Croesus.

2021-7024

SOAH Docket No. 454-20-4009.C

Exceptions Letter By ALJ

June 7, 2021

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Although the ALJ was not initially convinced of the need for a cease and desist order, ordering Croesus to cease and desist from practicing insurance without a license may help serve the purpose of chapter 101 of the Texas Insurance Code by protecting the public. *See* Tex. Ins. Code § 101.001.

The ALJ therefore amends the proposal for decision's conclusions of law as follows:

17. The holder of an authorization may be required to cease and desist from activity that violates the Insurance Code or a rule adopted under it. Tex. Ins. Code § 82.052(2). A cease and desist order may be issued if a person has violated chapter 101 of the Texas Insurance Code. Tex. Ins. Code §§ 101.103(a)(1), .153.
18. A cease and desist order should be issued against Croesus requiring it to immediately cease and desist from practicing insurance without a license. Tex. Ins. Code §§ 101.103(a)(1), .153.

Respondents' Exceptions

Respondents filed exceptions to the proposal for decision. But Respondents' exceptions were untimely. *See* 1 Tex. Admin. Code § 155.507 (providing 15 days to file exceptions). Even if considered, Respondents' exceptions lack merit.

First, Respondents emphasize certain evidence and ask the ALJ to reweigh the evidence. The ALJ declines to do so. A preponderance of the evidence showed that Respondents violated insurance laws and significant penalties are appropriate.

Second, Mr. Long asserts that he should be allowed to keep his general lines agent license with a life, accident, health, and HMO qualification because that license was not involved in the transactions at issue. The ALJ stands by the recommendation to revoke Mr. Long's insurance licenses because of the violations he committed.

Finally, Respondents request that administrative penalties and restitution be reduced because documents admitted into evidence were allegedly incomplete and additional unmentioned evidence could not be offered due to Order No. 8. The ALJ disagrees. Sanctions were imposed because of Respondents' failure to comply with discovery. Respondents could have engaged in discovery, produced any documents responsive to discovery requests before the hearing, and offered evidence at the hearing in accordance with SOAH Order No. 8. Respondents did not. The evidence supports the administrative penalties and restitution recommended here.

2021-7024

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Exceptions Letter By ALJ
June 7, 2021
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Conclusion

In sum, the ALJ amends the proposal for decision and recommends that a cease and desist order be issued against Croesus. With this change, the proposal for decision is ready for consideration.

Sincerely,

/s/ Andrew Lutostanski
Administrative Law Judge
State Office of Administrative Hearings

AL/tl

cc: Sarah White, Staff Attorney, Texas Department of Insurance, 333 Guadalupe, Tower 1, 13th Floor, Austin, Texas 78701 - **VIA E-FILE TEXAS**
Chief Clerk, Texas Department of Insurance, 333 Guadalupe, Tower I, Suite 1300D, Austin, Texas 78701 - **VIA E-FILE TEXAS**
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Bryan Alan Long, [REDACTED] Mesquite, Texas 75181 - **VIA E-FILE TEXAS**