

No. **4422**

OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE

Date: APR 28 2016

Subject Considered:

LUIS MARCELO POVOLO
3700 Santa Fe Ave., Ste. 300
Long Beach, CA 90810-2171

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 10815

General remarks and official action taken:

The commissioner of insurance considers disciplinary action against Luis Marcelo Povolo for failure to timely file new or renewal surplus lines insurance policies with the Surplus Lines Stamping Office of Texas.

Findings of Fact

1. Luis Marcelo Povolo, individual identification number 641500, holds a surplus lines license issued by the Texas Department of Insurance.
2. Pursuant to TEX. INS. CODE § 981.105(a), a surplus lines insurance agent must file with the Surplus Lines Stamping Office of Texas either:
 - a. a copy of the policy issued, or
 - b. if the policy has not yet been issued, a copy of the certificate, cover note, or other confirmation of insurance delivered to the insured.

This information is due not later than the 60th day after the later of the effective date or the issue date of new or renewal surplus lines insurance.

3. In 2014, Luis Marcelo Povolo filed surplus lines policies late.
4. On June 3, 2015, TDI assessed fees against Luis Marcelo Povolo because the late-filed surplus lines policies met at least one of the conditions in TEX. INS. CODE § 981.105(d-e).
5. Luis Marcelo Povolo did not timely pay the fees assessed pursuant to TEX. INS. CODE § 981.105(c-e).

Conclusions of Law

1. The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE § 981.105.
2. The commissioner of insurance has authority to informally dispose of this matter under TEX. INS. CODE § 82.055, TEX. GOV'T CODE § 2001.056, and 28 TEX. ADMIN. CODE § 1.47.
3. Luis Marcelo Povolo 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. Luis Marcelo Povolo violated TEX. INS. CODE § 981.105(a) by failing to timely file new or renewal surplus lines policies and related documents.

The commissioner orders Luis Marcelo Povolo to pay an administrative penalty of \$650. The administrative penalty must be paid within 30 days from the date of this order. The administrative penalty must be paid by cashier's check or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 40111, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

The commissioner further orders Luis Marcelo Povolo to implement internal policies, procedures, and other safeguards designed to ensure future surplus lines policies and related documents are timely filed in compliance with TEX. INS. CODE § 981.105(a).



David C. Mattax
Commissioner of Insurance

For the Department:



Rachel A. Cloyd, Staff Attorney

