

No. 2017- 4967

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: FEB 28 2017

Subject Considered:

MARK ANTONIE WHITENER
3707 Westcenter Dr. STE 200M
Houston, Texas 77042-5239

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 9310

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Mark Antonie Whitener.

WAIVER

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

FINDINGS OF FACT

The commissioner makes the following findings of fact:

1. Mark Antonie Whitener, individual identification no. 579519, holds a general lines agent license with a life, accident, and health qualification that the Texas Department of Insurance issued on April 7, 2004, and an additional property and casualty qualification issued on September 1, 2006.

Fake Certificate of Insurance

2. In 2014, Ty Hawkins purchased general liability insurance from Whitener. He paid Whitener \$1,067.12, which included a down payment of \$418.67, a document fee of \$498.02, and a premium payment of \$150.43. Whitener never placed coverage for Mr. Hawkins and issued a fake certificate of liability to him. Mr. Hawkins sought a refund of \$1,067.12 from Whitener but was unable to get in contact with him.
3. Mr. Hawkins complained to TDI about Whitener. Following TDI's request, Whitener refunded \$1,067.12 to Mr. Hawkins.

Unauthorized/Unregistered Entities

4. From 1988 to 2014, Whitener marketed and sold health insurance through The Whitener Group. TDI has no record showing that this entity was a licensed agency or had a registered trade style.
5. From 2010 to 2016, Whitener marketed insurance policies, processed premium payments, and solicited insurance policies through MW Marketing Strategies. TDI has no record that MW Marketing Strategies was ever registered as a licensed agency with TDI or as an assumed name. In 2016, Whitener stopped using MW Marketing Strategies for business related to insurance.
6. From 2013 to 2016, Whitener operated Texas Worksite Benefits. Texas Worksite Benefits was listed as the producer on certain certificates of liability Whitener issued. TDI has no record showing that this entity was a licensed agency or had a registered trade style.
7. TDI requested that Whitener change the assumed name "Texas Worksite Benefits" as it is misleading pursuant to 28 TEX. ADMIN. CODE § 19.902. Whitener changed his assumed name to "Texas Worksite Benefits Agency" and submitted a Form LDTL registering the name on December 22, 2016.
8. As of 2016, Whitener did not have up-to-date contact information and failed to register business locations with TDI at the following locations:
 - a) The Whitener Group
6250 Westpark #550
Houston, TX 77057
 - b) MW Marketing Strategies
12335 Kingsride Ln. #397
Houston, TX 77024
 - c) MW Marketing Strategies
10700 Richmond Ave. #100-1
Houston, TX 77042
 - d) Texas Worksite Benefits
12335 Kingsride Ln. #397
Houston, TX 77024, and
 - e) Texas Worksite Benefits
10700 Richmond Ave. #100-1
Houston, TX 77042.

Upon request from TDI, Whitener updated his contact information and registered his current business location.

Failure to Complete Continuing Education Requirements

9. Whitener failed to complete 26 of the required 30 hours of continuing education during the April 7, 2014, to June 7, 2016, reporting period.

CONCLUSIONS OF LAW

The commissioner makes the following conclusions of law:

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.001–82.056, 84.021–84.022, 4005.101–4005.103, 4051.051, and 4054.051, and TEX. GOV'T CODE §§ 2001.051–2001.178.
2. The commissioner has the authority to dispose of this case informally pursuant to the provisions of TEX. GOV'T CODE § 2001.056, TEX. INS. CODE § 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Whitener misappropriated, converted to his own use, or illegally withheld money belonging to an insurer, HMO, insured, enrollee, or beneficiary, in violation of TEX. INS. CODE § 4005.101(b)(4).
4. Whitener engaged in fraudulent or dishonest acts or practices, in violation of TEX. INS. CODE § 4005.101(b)(5).
5. Whitener failed to complete all required continuing education hours for the relevant renewal period, in violation of TEX. INS. CODE §§ 4004.051 (West 2005), 4004.053 (West 2009), and 4004.054.
6. Whitener failed to timely report a change of address to the department in violation of 28 TEX. ADMIN. CODE § 19.906.
7. Whitener failed to register assumed names and/or additional offices by filing with the department a completed form LDTL together with the required fee, in violation of 28 TEX. ADMIN. CODE § 19.902(c).
8. Whitener failed to obtain a separate license and/or register assumed names for The Whitener Group, MW Marketing Strategies, and Texas Worksite Benefits in violation of 28 TEX. ADMIN. CODE § 19.902.

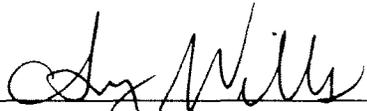
The commissioner of insurance orders Mark Antonie Whitener to pay a \$3,000.00 administrative penalty within 60 days from the date of this order. The administrative penalty must be paid by cashier's check or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Enforcement Section, Division 40111, MC 9999, P.O. Box 149104, Austin, Texas, 78714-9104.

The commissioner also orders Mark Antonie Whitener to complete 17 additional continuing education hours, including four additional hours of ethics, within 12 months of the date of this order. These 17 hours are in addition to, and shall not be applied toward, the 24 hours of continuing education, including two hours of ethics, required by TEX. INS. CODE §§ 4004.053-4004.054. Whitener must send proof of completion of these 17 additional hours to the Texas Department of Insurance, Attn: Catherine Bell, or her successor, Enforcement Section, MC 110-1A, P.O. Box 149104, Austin, Texas 78714-9104 within 13 months of the date of this order.



David C. Mattax
Commissioner of Insurance

APPROVED AS TO FORM AND CONTENT:



Amy L. K. Wills
Staff Attorney
Compliance Division, Enforcement Section
Texas Department of Insurance

AFFIDAVIT

STATE OF TEXAS §
COUNTY OF Harris §
§

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

“My name is Mark Antonie Whitener. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

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

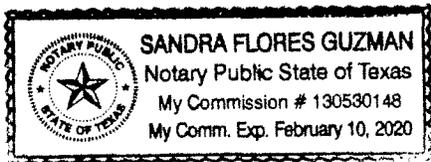
I am voluntarily entering into this consent order. I consent to the issuance and service of this consent order.”



Affiant

SWORN TO AND SUBSCRIBED before me on January 31, 2017.

(NOTARY STAMP)





Signature of Notary Public