

No. 2017- 4986

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

Date: MAR 10 2017

Subject Considered:

ARTURO GONZALES
3210 Clark Ave.
San Antonio, Texas 78210

DEFAULT ORDER
SOAH DOCKET NO. 454-17-2399.C
TDI ENFORCEMENT FILE NO. 9958

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Arturo Gonzales.

FINDINGS OF FACT

The commissioner makes the following findings of fact:

1. Arturo Gonzales, individual identification number 108342, holds a general lines agent license with life, accident, and health, and property and casualty qualifications that the department issued on October 27, 1994.
2. On January 30, 2017, the department sent a notice of hearing to Gonzales's last known address provided in writing to the department: 3210 Clark Ave., San Antonio, Texas 78210.
3. Gonzales failed to file a written response to the notice of hearing within 20 days of the date the notice of hearing was mailed.

Prior Misappropriation/Conversion

4. On July 8, 2013, the commissioner issued official order number 2632, a consent order. The department penalized Gonzales in the amount of \$1,750 for misappropriation of funds and allowing unlicensed individuals to engage in the business of insurance. The commissioner also required Gonzales to pay restitution to an insured in the amount of \$335.34.

Misappropriation/Conversion

5. On June 8, 2010, Gonzales entered into a producer agreement with Endeavor General Agency. As part of the agreement, Gonzales provided Endeavor with bank account information. Endeavor swept premium payments from that account.
6. From May 2012, through June 2014, Gonzales, and unlicensed individuals in his agency, collected approximately \$77,594.17 in premiums.
7. During that time, Endeavor's computer system showed that the premiums were collected and payment was verified from Gonzales's sweep account. However, Gonzales's account was actually closed. As a result, Endeavor did not receive any of the \$77,594.17 in premium payments.
8. Further, Gonzales did not notify Endeavor that his account was closed. Instead, Endeavor independently discovered that the premiums were not being remitted around the end of May 2014.
9. Consequently, Endeavor contacted Gonzales and notified him of the missing premiums. Endeavor attempted to work with Gonzales by arranging a payment plan. However, Gonzales has never paid any of the missing premiums to Endeavor.
10. Due to Gonzales's failure to pay the premiums owed, Endeavor began withholding his commissions, offsetting the outstanding balance of \$77,594.17 by \$6,527.78. Currently, Gonzales still owes Endeavor premiums in the amount of \$71,066.39.
11. In addition, Gonzales has been operating AREA Insurance since at least 2010. This agency is not registered with the department. AREA Insurance is also not registered as an assumed name.
12. From October 27, 2010, through October 26, 2012, and from October 27, 2012, through October 26, 2014, Gonzales did not complete any of the 30 hours of continuing education required for each reporting period.
13. TDI sent Gonzales a request for information pursuant to Texas Insurance Code § 38.001 on August 30, 2016. Gonzales did not timely respond.

CONCLUSIONS OF LAW

The commissioner makes the following conclusions of law:

1. The commissioner has jurisdiction pursuant to TEX. INS. CODE §§ 82.051–82.056, 4001.002, 4005.101–4005.102, 4051.051, 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 TEX. GOV'T CODE § 2001.056; TEX. INS. CODE § 82.055; and 28 TEX. ADMIN. CODE §§ 1.47, 1.88, and 1.89.
3. Based on 28 TEX. ADMIN. CODE § 19.906, Gonzales's last known address is presumed to be 3210 Clark Ave., San Antonio, Texas 78210.
4. The department sent a notice of hearing to Gonzales's last known address, as required by 28 TEX. ADMIN. CODE §§ 1.28(c) and 1.88(c), 1 TEX. ADMIN. CODE § 155.401, and TEX. GOV'T CODE Ch. 2001.
5. The allegations in the notice of hearing, set out herein as findings of fact nos. 1 and 4–13, are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.
6. Gonzales has committed acts for which a license may be revoked under TEX. INS. CODE § 4005.101, as contemplated in TEX. INS. CODE § 4005.102.
7. Gonzales has willfully violated an insurance law of this state in violation of TEX. INS. CODE § 4005.101(b)(1).
8. Gonzales engaged in fraudulent or dishonest acts or practices in violation of TEX. INS. CODE § 4005.101(b)(5).
9. Gonzales misappropriated, converted to his own use, or illegally withheld money belonging to an insured, insurer, or beneficiary in violation of TEX. INS. CODE § 4005.101(b)(4).
10. Gonzales permitted unlicensed employees to perform acts of an agent as defined in TEX. INS. CODE § 4001.051.
11. Gonzales permitted unlicensed employees to solicit applications for insurance, aiding in the transaction of the business of insurance in violation of TEX. INS. CODE § 4001.101.
12. Gonzales operated AREA Insurance without obtaining an agency license in violation of 28 TEX. ADMIN. CODE § 19.902.
13. Gonzales failed to register a trade style by filing with the department a completed form LDTL together with the required fee in violation of 28 TEX. ADMIN. CODE § 19.902.
14. Gonzales 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.
15. Gonzales failed to respond to a department inquiry in writing not later than the 15th day after the date the inquiry was received in violation TEX. INS. CODE § 38.001.

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COMMISSIONER'S ORDER

Arturo Gonzales

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The commissioner of insurance revokes Arturo Gonzales's general lines agent license with life, accident, and health, and property and casualty qualifications.



David C. Mattax

Commissioner of Insurance

~~By: Kevin Brady, Deputy Commissioner~~

~~Delegation Order 4506~~

