

No. 2017- 5072

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

Date: MAY 09 2017

Subject Considered:

GARRY NATHAN RISINGER
205 VZ CR 3503
1307 W. South Commerce
Wills Point, Texas 75169

DEFAULT ORDER
SOAH DOCKET NO. 454-17-3187.C
TDI CASE NO. 11566

General remarks and official action taken:

This Order is in consideration of whether disciplinary action should be taken against Garry Nathan Risinger.

FINDINGS OF FACT

The findings of fact are as follows:

1. Garry Nathan Risinger, individual identification no. 1324285, holds a general lines agent license with a life, accident, and health qualification issued by the department on May 20, 2005. The department also issued a property and casualty qualification for Risinger's general lines agent license on June 15, 2005.
2. On March 20, 2017, the department sent a notice of hearing to Risinger's last known address provided in writing to the department: 205 VZ CR 3503, 1307 W. South Commerce, Wills Point, Texas 75169.
3. Risinger failed to file a written response to the notice of hearing within 20 days of the date the notice of hearing was mailed.

Background

4. Risinger was appointed with Farmers Insurance and participated in the "Mail-In Program."

5. Farmers Mail-In Program allows agents to collect premiums in cash. An agent can choose to be in this program if he lives more than seven miles from a Farmers authorized bank.
6. Under the Mail-In program, the agent maintains a personal bank account to be used for the sole purpose of holding customer premiums in trust. The agent deposits all cash premiums collected into his premium trust account and then writes a check for the total cash amount collected. The agent then mails the premium trust account check with all other check collections to one of the authorized banks. This process avoids mailing cash payments and is supposed to be completed daily.
7. The payments are tracked by manual or computer-generated receipts. The computer-generated receipts are produced where the payment is entered directly into the Agent's Credit Advice (ACA) system and printed out. The ACA system keeps electronic records of all deposits. Farmers reconciles the manual and electronic records with the agent's premium trust account.

Misappropriation/Conversion

8. From February 2015, to March 2016, Risinger incurred 152 insufficient fund (NSF) fees, totaling \$4,687, for check or cash ACA entries, totaling at least \$15,062.
9. When Farmers reviewed Risinger's trust account, it discovered that Risinger made sporadic premium deposits that were significantly delayed and did not always match the corresponding cash deposits recorded in the ACA.
10. In addition, Risinger regularly made personal check deposits to balance his premium trust account, as it was often negative. For example, in March of 2016, due to the delayed deposits, Risinger had to pay \$2,100 by personal check and subsequently \$1,700 by personal check in order to clear 79 checks he had recently deposited. However, even with these deposits, his account balance was negative. In fact, on April 28, 2016, Risinger had to deposit an additional \$5,200 of his personal funds into the premium trust account to repay missing premiums.
11. On March 17, 2016, Farmers Internal Audit reviewed Risinger's bank records. At that time, Risinger had \$4,634 in outstanding checks that had not cleared for his cash ACA entries. He also had a negative balance of \$53, meaning the outstanding checks would not clear due to insufficient funds.
12. Overall, Risinger was not depositing the premiums into his trust account.
13. On March 28, 2016, Risinger issued a signed written statement in which he admitted that he did not mail premium cash payments to the company bank on a regular basis, he did not get his monthly bank statements in the mail, and he did not reconcile his premium trust account or check the account balance.

14. On June 2, 2016, Farmers terminated Risinger for embezzlement.

CONCLUSIONS OF LAW

The conclusions of law are as follows:

1. The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051–82.055, 4001.002, 4005.101, 4005.102, 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 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, Risinger's last known address is presumed to be 205 VZ CR 3503, 1307 W. South Commerce, Wills Point, Texas 75169.
4. The department sent a notice of hearing to Risinger'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 4–14, are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.
6. Risinger 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. Risinger has willfully violated an insurance law of this state in violation of TEX. INS. CODE § 4005.101(b)(1).
8. Risinger engaged in fraudulent or dishonest acts or practices in violation of TEX. INS. CODE § 4005.101(b)(5).
9. Risinger 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).

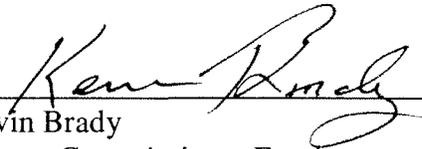
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COMMISSIONER'S ORDER

Garry Nathan Risinger

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It is ordered that Garry Nathan Risinger's general lines agent license with life, accident, and health, and property and casualty qualifications is revoked.



Kevin Brady
Deputy Commissioner For Agency Affairs
Texas Department of Insurance
Delegation Order 4506

110-1A

Name and Address of Sender
 Texas Dept of Insurance
 Mail Code 110-1A
 333 Guadalupe St
 Austin TX 78701
 March 20 2017
 Judy Lopez

[Handwritten mark]

Check type of mail or service	
Adult Signature Required	Priority Mail Express
Adult Signature Restricted Delivery	Registered Mail
<input checked="" type="checkbox"/> Certified Mail	Return Receipt for Merchandise
Certified Mail Restricted Delivery	Signature Confirmation
Collect on Delivery (COD)	Signature Confirmation Restricted Delivery
Insured Mail	
Priority Mail	

Firm Mailing Book For Accountable Mail

Affix Stamp Here
 (If issued as an international certificate of mailing or for additional copies of this receipt). Postmark with Date of Receipt

Wills	USPS Tracking/Article Number	Address (Name, Street, City, State, & Zip Code)	Postage	(Extra Service) Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	ASR Fee	ASRD Fee	RD Fee	RR Fee	SC Fee	SCRD Fee	SH Fee
	7014 2120 0002 6569 0403	Garry Nathan Resinger 205 VZ CR 3503 1307 W. South Commerce Wills Point, Texas 75169	6.70	335											
Ecase #11566 - Notice of Hearing	7014 2120 0002 6569 0410	Garry Nathan Resinger 1307 W South Commerce St Wills Point, Texas 75169-2370	6.70												
Ecase #11566 - Notice of Hearing	7014 2120 0002 6569 0427	Garry Nathan Resinger 3302 Old Jacksonville Highway Tyler, Texas 75701	6.70												
Ecase #11566 - Notice of Hearing	7014 2120 0002 6569 0434	Garry Nathan Resinger 1623 VZ County Rd Apt 3104 Edgewood, Texas 75117-5158	6.70												
Ecase #11566 - Notice of Hearing	7014 2120 0002 6569 0441	Garry Nathan Resinger 104 S 4th St Wills Point, Texas 75169-2633	6.70												
Ecase #11566 - Notice of Hearing	7014 2120 0002 6569 0458	Garry Nathan Resinger 2084 VZ County Road Apt. #3710 Edgewood, Texas 75117-4273	6.70												
Ecase #11566 - Notice of Hearing															

Handling Charge-if Registered and over \$50,000 in value

Adult Signature Required

Adult Signature Restricted Delivery

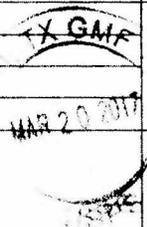
Restricted Delivery

Return Receipt

Signature Confirmation

Signature Confirmation Restricted Delivery

Special Handling



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