

No. **2020-6406**

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

Date: 07/24/2020

Subject Considered:

Gladys Gonzalez Nunez
GN Insurance Consultants, LLC
5417 South Staples, Suite 101
Corpus Christi, Texas 78411

Consent Order
TDI Enforcement File Nos. 24635 and 18798

General remarks and official action taken:

This is a consent order with Gladys Gonzalez Nunez (Nunez) and GN Insurance Consultants, LLC (GN Insurance). The department alleges that Nunez and GN Insurance collected commercial insurance premiums but negligently failed to place one of two policies sought and charged an agency fee without consent. Nunez has returned the unearned premium and agency fee to the consumer and agreed to complete at least nine hours of continuing education courses which will not be counted toward her ordinary continuing education requirements. Also, Nunez and GN Insurance have agreed to jointly and severally pay a \$500 administrative penalty.

Waiver

Nunez and GN Insurance acknowledge that the Texas Insurance Code and other applicable law provide certain rights. Respondents waive all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

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Findings of Fact

Licensure

1. Nunez, individual identification number 804782, was issued a general lines agent license with a life, accident, health, and HMO qualification, on September 10, 2008. On November 5, 2009, Nunez was also issued a property and casualty qualification.
2. On February 2, 2015, GN Insurance, firm identification number 97336, was issued a general lines agency license with both a property and casualty qualification, and a life, accident, health, and HMO qualification. Nunez is the sole owner and designated responsible agent for GN Insurance.

Negligent Failure to Place Coverage

3. The department received a complaint from a business owner (the Complainant).
4. In June 2017, the Complainant sought insurance for a dry-cleaning business she had recently purchased from the former owner (Former Owner). Both Complainant and Former Owner were customers of Nunez and GN Insurance, and the dry-cleaning business retained the exact same name after Complainant purchased it.
5. Complainant requested general liability and commercial automobile insurance policies from Nunez, through GN Insurance, with the expectation that the policy periods would begin July 20, 2017.
6. On June 23, 2017, Nunez and GN Insurance invoiced the Complainant for a total of \$2,403, for both policies for the period of July 20, 2017, through July 20, 2018.
7. On July 11, 2017, Complainant paid the invoice in full to Nunez and GN Insurance.
8. Nunez and GN Insurance timely obtained the automobile policy for the Complainant, but did not place coverage for the general liability policy.
9. GN Insurance had previously placed a general liability policy for the dry-cleaning business on behalf of the Former Owner with United States Liability Insurance Company (USLI), which was effective October 20, 2016 through October 20, 2017. The policy contained a provision which did not allow transfer of the policy without USLI's permission.

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10. Nunez and GN Insurance made no attempt to either request a transfer of the policy to or place a new general liability policy for Complainant until Nunez and GN Insurance were notified that the Former Owner's policy would expire on October 20, 2017, and was scheduled for renewal. At that time, Nunez and GN Insurance requested a new quote from the agent for USLI, for the Complainant, incorrectly identifying her as a part owner of the dry-cleaning business.
11. On October 23, 2017, USLI's agent asked Nunez and GN Insurance for additional information about Complainant's ownership percentage in the dry-cleaning business, but Nunez and GN Insurance did not respond.
12. Instead, on November 10, 2017, Nunez and GN Insurance notified the Complainant that the general liability insurance policy was "inactive" due to underwriting requirements and needing additional information. The Complainant either did not receive or did not respond to the notification and alleges she learned about the lack of coverage when she sold the dry-cleaning business in July 2018.

Failure to Obtain Consent to Charge Agency Fee

13. The total invoiced to the Complainant in June 2017 included an "Agency Fee" in the amount of \$250.
14. Although the Complainant was informed that GN Insurance may charge a fee in connection with her commercial auto policy application, Nunez and GN Insurance did not obtain Complainant's written consent for each fee charged.

Disciplinary History

15. In November 2014, the department issued a warning letter to Nunez for failing to place coverage and submit payment for a personal umbrella policy. Nunez has no other disciplinary history with the department.

Mitigating Circumstances

16. The Complainant did not experience a general liability loss during the period which Complainant intended to be covered.

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17. Nunez represents that she collected the premium for the general liability policy intending to apply it at renewal to the policy in force for the Former Owner. Nunez represents that she mistakenly believed that the Former Owner's general liability policy would remain in force after Complainant purchased the dry-cleaning business and due to her lack of commercial insurance experience, she did not understand it was non-transferrable. Nunez and GN Insurance further represent that the vast majority of their business is in personal lines.
18. In August 2018, Nunez and GN Insurance returned \$1,114.75 to the Complainant.
19. Between November 2019 and February 2020, Nunez and GN Insurance made multiple attempts in coordination with TDI staff to return the remaining \$796.25 to Complainant. On or about February 7, 2020, those funds were successfully returned to the Complainant. The total amount refunded to Complainant was \$1,911, representing all funds invoiced and paid by the Complainant, less the earned premium for Complainant's commercial automobile policy.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021 – 84.044, 4001.002, 4005.101 – 4005.102, 4051.051, and 4054.051.
2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. Nunez and GN Insurance have knowingly and voluntarily waived all procedural rights to which they 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. Nunez and GN Insurance violated TEX. INS. CODE § 4005.101(b)(4) by misappropriating, converting to their own use, or illegally withholding money belonging to an insurer or insured.
5. Nunez and GN Insurance violated TEX. INS. CODE § 4005.101(b)(5) by engaging in dishonest acts.

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6. Nunez and GN Insurance violated TEX. INS. CODE § 4005.003(c) by failing to obtain the client's written consent for an agent fee.

Order

It is ordered that within 90 days from the date of this order, Gladys Gonzalez Nunez must complete at least nine hours of additional continuing education courses which are classroom courses or classroom equivalent courses. These hours will be required in addition to Nunez's 24-hour continuing education renewal requirements. The additional courses must be related to commercial insurance, and may include the topics of commercial liability insurance, business insurance, or business ethics. Upon completion of these courses, Nunez must submit a copy of all certificates of completion to EnforcementReports@tdi.texas.gov.

It is further ordered that Gladys Gonzalez Nunez and GN Insurance Consultants, LLC, must pay, jointly and severally, an administrative penalty of \$500 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" and transmitted to the Texas Department of Insurance, Attn: Enforcement Section, Division 60851, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.

Kent C. Sullivan
Commissioner of Insurance

By: 
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Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Anna Kalapach, Staff Attorney
Enforcement Division

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Affidavit

STATE OF Texas §

COUNTY OF Nueces §

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

"My name is Gladys Gonzalez Nunez. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

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

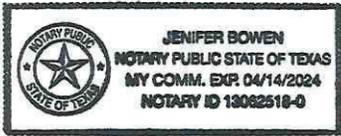
I have knowingly and voluntarily entered into this Consent Order and agree with and consent to the issuance and service of the same by the Commissioner of Insurance of the State of Texas."



Affiant

SWORN TO AND SUBSCRIBED before me on July 8th, 2020.

(NOTARY SEAL)





Signature of Notary Public

Jenifer Bowen

Printed Name of Notary Public

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Affidavit

STATE OF Texas §

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

"My name is Gladys Gonzalez Nunez. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I hold the office of Owner, and am the authorized representative of GN Insurance Consultants, LLC. I am duly authorized by said organization to execute this statement.

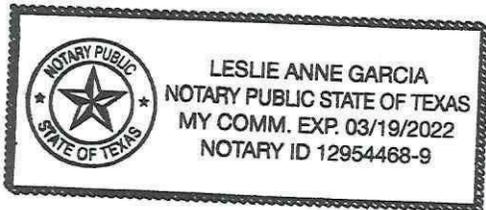
GN Insurance Consultants, LLC, has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas."



Affiant

SWORN TO AND SUBSCRIBED before me on July 9th, 2020.

(NOTARY SEAL)





Signature of Notary Public
Leslie Anne Garcia

Printed Name of Notary Public