

No. **4183**

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

Date: **NOV 16 2015**

Subject Considered:

MARK FRANK KATZENELLENBOGEN
9639 Hillcroft, #794
Houston, Texas 77096

DEFAULT ORDER
SOAH DOCKET NO. 454-16-0188.C
TDI ENFORCEMENT FILE NO. 9207

General remarks and official action taken:

The commissioner of insurance considers disciplinary action against Mark Frank Katzenellenbogen.

Findings of Fact

1. Mark Frank Katzenellenbogen, individual identification no. 155653, has held a general lines property and casualty license since March 29, 1985, and a surplus lines license since November 4, 1985.
2. On September 21, 2015, the department sent a notice of hearing to Katzenellenbogen's last known address, 9639 Hillcroft, #794, Houston, Texas 77096, and one additional address, P.O. Box 460093, Houston, Texas 77056.
3. Katzenellenbogen failed to file a written response to the notice of hearing within 20 days of the date the notice of hearing was mailed to the last known address and one additional address he filed with the department in writing.
4. According to records from the Surplus Lines Stamping Office of Texas (SLSOT), for surplus lines policies issued or effective in 2009, Katzenellenbogen reported \$240,150 in total surplus lines premium and \$228,866 in taxable surplus lines premium to the Texas Comptroller of Public Accounts. However, Katzenellenbogen failed to file any 2009 policies with SLSOT.
5. According to records from SLSOT, for surplus lines policies issued or effective in 2010, Katzenellenbogen reported \$188,524 in total surplus lines premium and \$173,798 in taxable surplus lines premium to the comptroller. However, Katzenellenbogen failed to file any 2010 policies with SLSOT.

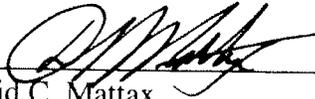
6. According to records from SLSOT, for surplus lines policies issued or effective in 2011, Katzenellenbogen reported \$178,532 in total surplus lines premium and \$151,952 in taxable surplus lines premium to the comptroller. However, Katzenellenbogen failed to file any 2011 policies with SLSOT.
7. According to records from SLSOT, for surplus lines policies issued or effective in 2012, Katzenellenbogen reported \$193,375 in total surplus lines premium and \$168,090 in taxable surplus lines premium to the comptroller. However, Katzenellenbogen failed to file any 2012 policies with SLSOT.
8. According to records from SLSOT, for surplus lines policies issued or effective in 2013, Katzenellenbogen reported \$147,317 in total surplus lines premium and \$111,561 in taxable surplus lines premium to the comptroller. However, Katzenellenbogen failed to file any 2013 policies with SLSOT.
9. According to records from SLSOT, Katzenellenbogen failed to file any surplus lines policies issued or effective in 2014 with SLSOT.
10. According to TDI records, Katzenellenbogen failed to provide a report of all surplus lines policies filed with SLSOT between January 1, 2014, and June 30, 2014, detailing the insured's name, gross premium, effective or issue date, and the date the policy was filed with SLSOT. The report was due by July 15, 2014.
11. According to TDI records, Katzenellenbogen failed to provide a report of all surplus lines policies filed with SLSOT between July 1, 2014, and December 31, 2014, detailing the insured's name, gross premium, effective or issue date, and the date the policy was filed with SLSOT. The report was due by January 15, 2015.
12. On July 7, 2014, the commissioner issued order no. 3384, directing Katzenellenbogen to pay an administrative penalty of \$10,000 within 180 days of the order, and ordering Katzenellenbogen to file immediately all surplus lines policies with an effective or issue date of January 1, 2013, or later with SLSOT. The commissioner further ordered that by July 15, 2014, Katzenellenbogen must provide TDI with a report of all surplus lines policies filed with SLSOT between January 1, 2014, and June 30, 2014. Additionally, by January 15, 2015, Katzenellenbogen was required to provide TDI with a report of all surplus lines policies he filed with SLSOT between July 1, 2014, and December 31, 2014. Accordingly, Katzenellenbogen was also required to implement internal policies, procedures and other safeguards to ensure future surplus lines policies and related documents are timely filed and provide a report detailing these policies and procedures to TDI within 30 days of the order.
13. According to TDI records, Katzenellenbogen failed to comply fully with the July 7, 2015, commissioner's order. Katzenellenbogen paid the \$10,000 administrative penalty but, failed to file the surplus lines policies with an effective or issue date of January 1, 2013, or later with SLSOT, failed to provide TDI with a report of the SLSOT filings, and failed to provide a detailed report of newly implemented policies and procedures with TDI.

14. Katzenellenbogen failed to respond to multiple, written requests for information pursuant to TEX. INS. CODE § 38.001 from the department regarding the above findings of fact.

Conclusions of Law

1. The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE ANN. §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, 4051.051 and 981.202, and TEX. GOV'T CODE ANN. §§ 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, Katzenellenbogen's last known address is presumed to be 9639 Hillcroft, #794, Houston, Texas 77096.
4. TDI mailed a notice of hearing to Katzenellenbogen'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 as findings of fact nos. 4 - 14, are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.
6. Pursuant to TEX. INS. CODE §§ 981.105, 981.213, 981.214 and 981.216 the commissioner may revoke Katzenellenbogen's license because he has:
 - a. continuously failed to comply with the SLSOT's plan of operation;
 - b. failed to report and file a copy of each surplus lines insurance contract with SLSOT, in accordance with SLSOT's plan of operation;
 - c. failed to submit an annual report to the department; and
 - d. failed to comply with a commissioner's order.
7. Katzenellenbogen violated TEX. INS. CODE § 38.001 by failing to respond to written requests for information from the department.

The commissioner revokes Mark Frank Katzenellenbogen's surplus lines license and general lines property and casualty license.



David C. Mattax
Commissioner of Insurance

