

4455

No. _____

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

Date: MAY 09 2016

Subject Considered:

MARCELLA JOAN MUHLNICKEL
8660 Hawthorne Road
Frisco, Texas 75034

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 8541

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Marcella Joan Muhl nickel.

Waiver

Marcella Joan Muhl nickel acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Muhl nickel waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

Findings of Fact

1. Marcella Joan Muhl nickel, individual identification no. 747529, holds a general lines life, accident, and health license issued by the Texas Department of Insurance on July 25, 2007.
2. Muhl nickel accepted two long-term care policies for a husband and wife that were orphaned policies—policies that had been placed by a separate agent that Muhl nickel took over after that agent was removed as the agent of record. The son of this couple wanted to personally provide in-home care for his parents and have his care covered by his parents' policies. Muhl nickel worked with the son and the insurer, making several attempts to file claims in such a way that the son would qualify to receive claim payments, but was unsuccessful. In her final attempt, Muhl nickel fabricated invoices and other accompanying claim documents that falsely held out to the insurer that the son was providing care while employed by a home healthcare service provider.
3. Muhl nickel knowingly falsified invoices for five weeks of care on each parent, totaling \$7,770 in false claims.

4. The policyholders' son was a certified nurse aide and provided the care that was invoiced, but was never employed by a home healthcare service provider.
5. The home healthcare service provider had given Muhl nickel its corporate information, federal tax identification number and state licensing information, believing it was securing a position on a preferred provider list. Muhl nickel instead used this information on the falsified invoices.
6. The insurer did not issue claim payments on these falsified claims. Even if the son had legitimately worked for the home healthcare service provider, his care would not have been covered under the terms of the policies. The insurer offers coverage where this sort of care by a descendant would be covered, but the policies in question did not include such coverage under any circumstances.
7. Because she was not the writing agent of these orphaned policies, Muhl nickel did not receive any commissions or compensation for these policies.

Conclusions of Law

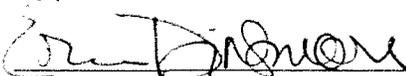
1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE chs. 82, 84, 4005, and 4054; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has the authority to dispose of this case informally pursuant to TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Muhl nickel engaged in fraudulent or dishonest acts or practices, an act for which a license holder may be disciplined under TEX. INS. CODE § 4005.101(b)(5).

The commissioner orders Marcella Joan Muhl nickel to pay a \$1,000 administrative penalty within four months 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 Texas Department of Insurance, Attn: Enforcement Section, Division 40111, MC 9999, P.O. Box 149104, Austin, Texas 78714-9104.



David C. Mattax
Commissioner of Insurance

APPROVED AS TO FORM AND CONTENT:



Erin Dinsmore, Staff Attorney

Affidavit

STATE OF Texas

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COUNTY OF Collin

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

"My name is Marcella J. Muhl尼克el I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

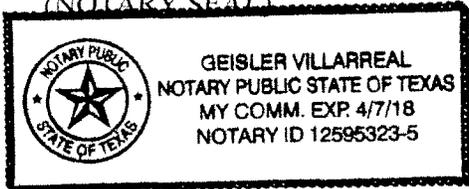
I waive rights provided by the Texas Insurance Code and other applicable laws, and acknowledge the jurisdiction of the commissioner.

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."

Marcella Muhl尼克el
Affiant

SWORN TO AND SUBSCRIBED before me on this 25th day of April, 2016.

(NOTARY SEAL)



[Signature]
Signature of Notary Public