

No. 2017- 5006

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

Date: MAR 2 8 2017

Subject Considered:

DIANE DUENEZ
2424 Valley Forge Drive
Pasadena Texas 77502

DEFAULT ORDER
SOAH DOCKET NO. 454-17-1828.C
TDI ENFORCEMENT FILE NO. 9541

General remarks and official action taken:

The commissioner of insurance considers disciplinary action against Diane Duenez.

FINDINGS OF FACT

The commissioner makes the following findings of fact:

1. Diane Duenez, individual identification no. 1469926, holds a general lines agent license with a property and casualty qualification issued by the Texas Department of Insurance on October 12, 2007.
2. On December 22, 2016, the department sent a notice of hearing to Duenez's last known address provided in writing to the department, 2424 Valley Forge Drive, Pasadena Texas 77502.
3. Duenez failed to file a written response to the notice of hearing within 20 days of the date the notice of hearing was mailed.
4. Department records show that Duenez did not complete the required number of hours of continuing education for the October 12, 2009, to October 11, 2011, and the October 12, 2011, to October 11, 2013, reporting periods. When the department questioned Duenez about the continuing education deficiency, she falsified certificates of completion for continuing education courses with a completion date of September 26, 2013, and submitted them to the department.
5. The continuing education provider, WebCE, verified that the courses on the certificates Duenez submitted were not offered during the time period contained on the certificates or were purchased by her but not completed for continuing education credit.

6. On April 4, 2008, Duenez pleaded guilty to the offense of theft of \$1,500.00-\$20,000.00, a state jail felony, in the 177th District Court of Harris County, Texas in cause number 1104014. The court placed her on two years deferred adjudication, and ordered her to pay court costs of \$203.00 and restitution in the amount of \$1,860.63. Duenez stole \$1,534.00 from an insurance company in Houston, Harris County, Texas while employed as a clerk by collecting payments and failing to remit those payments to the company. She failed to satisfy the terms of her deferred adjudication, and was unsatisfactorily discharged on May 11, 2010.
7. On April 29, 2015, Duenez submitted an electronic application to renew her license. She failed to disclose the April 4, 2008, guilty plea and order of deferred adjudication to the department on the renewal application.
8. On March 16, 2016, Duenez pleaded guilty to the charge of theft of \$100.00 -\$750.00, a class B misdemeanor, in the County Criminal Court at Law No. 5, Harris County, Texas in cause number 2060737. The court placed her on 18 months deferred adjudication, and ordered her to pay a \$200.00 fine. Duenez exercised control over property, namely, a One Game System, a video game console owned by another. Duenez is currently on community supervision for this offense until September 15, 2017.

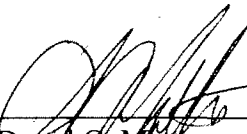
CONCLUSIONS OF LAW

The commissioner makes the following conclusions of law:

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, and 4051.051; TEX. GOV'T CODE §§ 2001.051- 2001.178; 28 TEX. ADMIN. CODE § 1.502; and TEX. OCC. CODE §§ 53.021-53.023.
2. TEX. GOV'T CODE § 2001.056; TEX. INS. CODE § 82.055; and 28 TEX. ADMIN. CODE §§ 1.47, 1.88, and 1.89 give the commissioner authority to dispose of this case informally.
3. Based on 28 TEX. ADMIN. CODE § 19.906, Duenez's last known address is presumed to be 2424 Valley Forge Drive, Pasadena Texas 77502.
4. TDI sent a notice of hearing to Duenez'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 4-8, are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.
6. Duenez failed to complete continuing education requirements during the reporting period October 12, 2009, to October 11, 2011, and October 12, 2011, to October 11, 2013, in violation of TEX. INS. CODE §§ 4004.051 (West 2005), 4004.053 (West 2009), and 4004.054 and 28 TEX. ADMIN. CODE 19.1003(a).
7. Duenez engaged in fraudulent or dishonest acts or practices, in violation of TEX. INS. CODE § 4005.101(b)(5).

8. Duenez committed an offense for which fraud, dishonesty, or deceit is an essential element, as contemplated in 28 TEX. ADMIN. CODE § 1.502(e)(1) and TEX. OCC. CODE § 53.021-53.023.
9. Duenez committed an offense with the essential elements of a theft offense, as contemplated in 28 TEX. ADMIN. CODE § 1.502(e)(4)(F).
10. Duenez committed an offense that the department considers to be of such serious nature that it is of prime importance in determining fitness for licensure or authorization, as contemplated by 28 TEX. ADMIN. CODE § 1.502(e).
11. Duenez committed a felony or misdemeanor that directly relates to the business of insurance, as contemplated in 28 TEX. ADMIN. CODE § 1.502(d) and TEX. OCC. CODE § 53.021-53.023.
12. Duenez committed an act for which a license may be denied under TEX. INS. CODE § 4005.101 as contemplated in TEX. INS. CODE § 4001.105(3);
13. Duenez intentionally made a material misstatement in a license renewal application, as contemplated by TEX. INS. CODE § 4005.101(b)(2).
14. Duenez obtained, or attempted to obtain, a license renewal by fraud or misrepresentation, as contemplated by TEX. INS. CODE § 4005.101(b)(3).

The commissioner of insurance revokes Diane Duenez's general lines agent license with a property and casualty qualification.



David C. Mattox
Commissioner of Insurance
~~By: Kevin Brady, Deputy Commissioner.~~
~~Delegation Order 4506~~

Approved as to Form and Content:



Lakisha T. Seldon McKay
Enforcement Section, Compliance Division
Texas Department of Insurance

Affidavit

STATE OF TEXAS

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COUNTY OF TRAVIS

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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 Judy Lopez and I am employed by the Texas Department of Insurance. I am of sound mind, capable of making this affidavit, and have personal knowledge of these facts which are true and correct.

I have reviewed TDI's records concerning Diane Duenez. I have confirmed that:

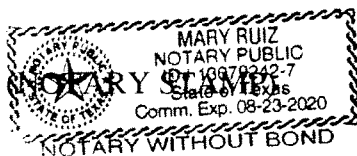
- a. The last mailing address provided to the department by Diane Duenez in writing is 2424 Valley Forge Drive, Pasadena, Texas 77502.
- b. The file maintained by the Enforcement Section of the Compliance Division contains an amended notice of hearing dated February 16, 2017, filed with the State Office of Administrative Hearings.
- c. First class and certified letters, return receipts requested containing an amended notice of hearing, were sent to Duenez's last known address.

Copies of the certified mail logs maintained by the Enforcement Section are attached as Exhibit A."

Copies of the first class mail logs maintained by the Enforcement Section are attached as Exhibit B."

Judy Lopez
Affiant

SWORN TO AND SUBSCRIBED before me on March 15, 2017.



Mg S
Signature of Notary Public

Check type of mail or service

☐ Adult Signature Required ☐ Priority Mail Express

☐ Adult Signature Restricted Delivery ☐ Registered Mail

☒ Certified Mail ☐ Return Receipt for Merchandise

☐ Certified Mail Restricted Delivery ☐ Signature Confirmation

☐ Collect on Delivery (COD) ☐ Signature Confirmation Restricted Delivery

☐ Insured Mail

☐ Priority Mail

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

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Check type of mail or service

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

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

