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.

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).
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
AFFIDAVIT

STATE OF TEXAS

COUNTY OF TRAVIS

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 Garry Nathan Risinger. I have confirmed that:

a. The last mailing address provided to the department by Garry Nathan Risinger is 205 VZ CR 3503, 1307 W. South Commerce, Wills Point, Texas 75169.

b. The file maintained by the Enforcement Section contains a notice of hearing dated March 20, 2017, filed with the State Office of Administrative Hearings.

c. On March 20, 2014, certified letters, return receipt requested, and first class mailings, each containing a notice of hearing were sent to Garry Nathan Risinger’s last known address at 205 VZ CR 3503, 1307 W. South Commerce, Wills Point, Texas 75169.

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

Affiant

SWORN TO AND SUBSCRIBED before me on 2 May 2017.

(NOTARY STAMP)

Michael W. Jackson
Notary Public
STATE OF TEXAS
Commission Exp. JULY 19, 2018

Signature of Notary Public

Notary without Bond

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**Notice of Hearing**

**Case #11566 - Notice of Hearing**

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- Wills Point, Texas 75169
- Wills Point, Texas 75169-2370
- 3302 Old Jacksonville Highway, Tyler, Texas 75701
- 1623 VZ County Rd Apt 3104, Edgewood, Texas 75117-5158
- 104 S 4th St, Wills Point, Texas 75169-2633
- 2064 VZ County Road Apt #3710, Edgewood, Texas 75117-4273

**Date of Receipt**

- Mar 20, 2017

**Signature Required**

- Affix Stamp Here

**Certificate of Mailing**

- Postmark with Date of Receipt

**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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