

No. **2022-7269**

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

Date: 03/21/2022

Subject Considered:

A-Max Insurance Services, Inc.
3030 North Stemmons Freeway, Suite B
Dallas, Texas 75247-6105

Consent Order
TDI Enforcement File No. 25995

General remarks and official action taken:

For more than one year, A-Max Insurance Services, Inc. (A-Max) allowed at least 41 unlicensed employees to perform acts constituting the business of insurance in Texas, and which required they hold agent licenses. A-Max charged consumers agent fees without obtaining written consent from the consumer and falsely implied that some of those fees were approved by the State of Texas. A-Max has since submitted an application to the department to add a life, accident, health and HMO qualification to its general lines agency license. This order grants that application, but also suspends A-Max's general lines agency license for one year, with the suspension probated pursuant to the terms and conditions stated in this order. A-Max also agrees to pay an administrative penalty of \$60,000.

Waiver

A-Max acknowledges that the Texas Insurance Code and other applicable law provide certain rights. A-Max waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

2022-7269

Commissioner's Order

A-Max Insurance Services, Inc.

Page 2 of 8

Findings of Fact

1. Under firm identification number 23301, A-Max holds a general lines agency license with a property and casualty qualification, issued by the department on June 8, 2005.

Unlicensed Employees Engaging in the Business of Insurance

2. For more than one year, A-Max allowed at least 41 unlicensed employees to perform the acts of an agent in Texas. The acts performed on behalf of A-Max by these unlicensed employees included soliciting and providing insurance quotes, discussing insurance coverage and products, transmitting insurance applications, selling insurance policies, and receiving or collecting insurance premiums upon which they earned commission and compensation.
3. Because the hire dates of the unlicensed employees varied, the timeframe of the conduct also varied. Most of the unlicensed employees were hired during or after March 2020 and their conduct continued until February 2021.
4. However, one unlicensed employee performed the acts of an agent for more than two years. This employee was hired in January 2018 and performed the acts of an agent until August 2020.
5. Despite the department notifying A-Max about this employee's lack of licensure in May 2020, A-Max continued to allow and, in fact, encouraged this employee to continue to quote and sell insurance without licensure for three more months, rewarding the employee with commissions. In fact, A-Max paid the unlicensed employee approximately \$3,500 in commissions between February 23, 2018, and August 28, 2020.
6. The 41 unlicensed employees collected more than \$356,000 in premiums from Texas consumers, earning A-Max at least \$53,485.95 in commissions. From these commissions, A-Max paid approximately \$14,200 to the 41 unlicensed employees and retained the remainder, approximately \$39,285.95.
7. During the department's investigation of this matter, A-Max represented that the individual employees and local managers were responsible for confirming that employees were licensed. However, A-Max also paid local managers a percentage of the unlicensed employees' commissions. By paying commissions to the

2022-7269

Commissioner's Order

A-Max Insurance Services, Inc.

Page 3 of 8

managers responsible for checking employee license status, A-Max created an environment in which it rewarded its managers who did not check the license status of their employees.

8. Even after A-Max acknowledged the unlicensed activity of its 41 employees, A-Max took no disciplinary action against the managers and employees involved.

Charging Misleading Agent Fees Without Written Consent

9. On December 8, 2020, a consumer, O.E., was charged \$189 as an agent fee by an A-Max licensed agent. The fee was labeled "State Approved Agency Fee" in the invoice A-Max sent to the consumer. O.E. did not consent to the \$189 fee and did not sign a form in which the fee was disclosed to O.E.
10. After O.E. submitted a complaint to the department regarding the fee, A-Max returned the \$189 fee to O.E.
11. On or about December 26, 2020, a consumer, K.M., paid her monthly premiums over the phone by providing payment information to an A-Max licensed agent. K.M. was charged \$1 as an agent fee by the A-Max agent. The fee was labeled "State Approved Agency Fee" in the invoice A-Max sent to the consumer.
12. K.M. did not consent to the \$1 fee and did not sign a form in which the fee was disclosed to K.M.
13. In addition to failing to get consent to charge agency fees, A-Max misled these two consumers because the department does not approve the amount of agent fees charged in compliance with the Texas Insurance Code.

Mitigating Circumstances

14. A-Max represents that after January 2021, it ceased allowing unlicensed employees to engage in the business of insurance.
15. In January 2021, A-Max requested that its unlicensed employees apply for a temporary limited lines agent license. A-Max also revised its hiring procedures to include time restraints on new employees to become licensed. A-Max represents that it created an online licensing portal for employees to facilitate the licensing workflow and license renewals.

2022-7269

Commissioner's Order

A-Max Insurance Services, Inc.

Page 4 of 8

16. A-Max represents that beginning in January 2021, it tasked its human resources personnel with responsibility for confirming the license status of employees and removed that responsibility and the commission incentive from managers who previously directly profited from unlicensed employees' sales.

Application for Additional Qualification

17. On October 7, 2021, A-Max submitted an application to the department to add a life, accident, health, and HMO qualification to its existing general lines agency license.
18. The department proposed to deny A-Max's application on October 14, 2021. A-Max appealed that decision and made a written request for a hearing.
19. That application is being resolved through this consent order.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 101.051, 101.053, 101.101–101.103, 101.151–101.156, 4001.002, 4001.051–4001.101, 4005.101–4005.103, 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. A-Max has knowingly and voluntarily waived all procedural rights to which it 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. A-Max violated TEX. INS. CODE §§ 101.102, 4001.051, and 4001.101, by allowing employees who did not hold an insurance license or other authorization issued by the department to perform acts constituting the business of insurance.

2022-7269

Commissioner's Order

A-Max Insurance Services, Inc.

Page 5 of 8

5. A-Max violated TEX. INS. CODE § 4005.053(a) by directly or indirectly paying unlicensed employees a commission for services performed by those unlicensed employees as an agent.
6. A-Max violated 28 TEX. ADMIN. CODE § 19.1503(c) by charging agent fees without obtaining the consumer's written consent for each fee charged.
7. A-Max violated TEX. INS. CODE §§ 541.003 and 541.061(1)-(3) by misrepresenting to consumers that agent fees it charged were approved by the State of Texas.
8. As contemplated in TEX. INS. CODE §§ 4005.101–4005.102, A-Max has committed acts that are grounds to deny its application to add a life, accident, health, and HMO qualification to its general lines agency license.

Order

It is ordered that A-Max Insurance Services, Inc. must immediately cease and desist from stating or implying to consumers that its agent fees are "State Approved" or otherwise approved by the department or the State of Texas.

It is further ordered that A-Max's general lines agency license with a property and casualty qualification is suspended for one year. The suspension is probated pursuant to the terms and conditions stated in this order.

It is further ordered that a life, accident, health, and HMO qualification is granted to A-Max. It is further ordered that the qualification is also suspended for one year, with the suspension probated pursuant to the terms and conditions stated in this order.

If, during the probation period imposed by this order, the department issues any additional licenses or authorizations to A-Max, those additional licenses or authorizations will be suspended until the probation period imposed by this order has ended. The suspension shall be probated and the same terms and conditions stated in this order will apply.

Beginning from the date of this order and continuing through the probation period, A-Max must file a written report, on or before the 15th day of each month on a quarterly basis for the third, sixth, ninth, and twelfth month following the date of entry of this order with the department by emailing it to EnforcementReports@tdi.texas.gov. The reports must include the following information:

2022-7269

Commissioner's Order

A-Max Insurance Services, Inc.

Page 6 of 8

- a. for each unlicensed employee or individual working for or on behalf of A-Max within the prior quarter, a brief description of that person's duties, the identity of the person to whom that unlicensed person reports or reported, whether that person's compensation is or was directly dependent on insurance business obtained by A-Max, and how that person is compensated;
- b. the name, address, and contact number of any insurer which has newly appointed A-Max within the prior quarter;
- c. the name, address, and contact number of any insurer which has canceled A-Max's appointment, and a brief description of the reason for that cancellation, if known; and
- d. provision of a copy of the initial pleading for any civil suit brought against A-Max in which the allegations concern A-Max's actions as a licensed agency.

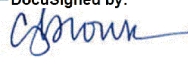
A-Max must notify the department immediately of the following by emailing EnforcementReports@tdi.texas.gov:

- a. any charges or indictments filed against any officer or director of A-Max for a misdemeanor or felony during the period A-Max is required to file reports, excluding traffic offenses and Class C misdemeanors;
- b. any state or regulatory actions taken against it including formal and informal actions; and
- c. any written or electronic complaint made by customers against A-Max, its employees, agents or other persons working on its behalf concerning one or more of the following allegation(s) that:
 - i. an unlicensed employee is or has engaged in the business of insurance; or
 - ii. the customer disputes or was overcharged any fee or amount A-Max contends was charged to the customer in accordance with TEX. INS. CODE §§ 550.001 or 4005.003, or 28 TEX. ADMIN. CODE 19.1503.

A-Max must provide a copy of the complaint and any documents related to and responsive to the complaint, as well as provide the department with a written explanation detailing the steps A-Max has taken to resolve the complaint.

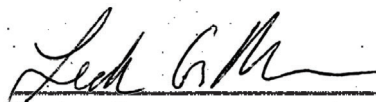
Commissioner's Order
A-Max Insurance Services, Inc.
Page 7 of 8


It is further ordered that A-Max Insurance Services, Inc., pay an administrative penalty of \$60,000 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the department will send after entry of this order.

DocuSigned by:

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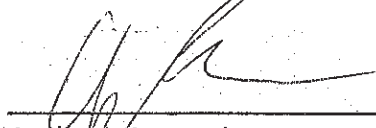
Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:


Leah Gillum, Deputy Commissioner
Enforcement Division


Anna Kalapach, Staff Attorney
Enforcement Division

Approved as to form and content:


Anthony Icenogle
Counsel for A-Max Insurance Services, Inc.

Affidavit

STATE OF Texas §
§
COUNTY OF Dallas §

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

"My name is Amirali Didarali. 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 C.O.O. and am the authorized representative of A-Max Insurance Services, Inc. I am duly authorized by said organization to execute this statement.

A-Max Insurance Services, Inc., 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."

Amirali Didarali

Affiant

SWORN TO AND SUBSCRIBED before me on 02-28-22

(NOTARY SEAL)

Irsema Garza
Signature of Notary Public

Irsema Garza
Printed Name of Notary Public

