

No. 2023-8301

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

Date: 10/26/2023

Subject Considered:

David Brian Test
[REDACTED]
Frisco, Texas 75035-8170

Consent Order
TDI Enforcement File No. 31714

General remarks and official action taken:

This is a consent order with David Brian Test (Test). Test failed to notify the Texas Department of Insurance (TDI) of administrative action taken against him by the Financial Industry Regulatory Authority (FINRA), and made a material misstatement in his renewal license application by failing to disclose that FINRA action. Test has agreed to pay an administrative penalty of \$1,500.

Waiver

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

Findings of Fact

Licensure and Background

1. Test, individual identification no. 378273, holds a general lines agent license with a life, accident, health, and HMO qualification, issued by TDI on July 18, 1990.

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Failure to Notify

2. On May 5, 2022, Test uploaded to the National Insurance Producer Registry (NIPR) an explanatory letter signed and dated October 12, 2021, notifying TDI and other state insurance regulators that he had recently been terminated from "Northwestern Mutual" for checking boxes and signing initials for three clients, which he represented was in the best interest of the clients but that he admitted was wrong.
3. Test's letter did not mention FINRA. According to TDI records, Northwestern Mutual Life Insurance Company canceled Test's agent appointment for cause on August 16, 2021.
4. On or about January 19, 2023, in disciplinary proceeding no. 2021072263801, FINRA issued a Letter of Acceptance, Waiver, and Consent (AWC), imposing a \$5,000 fine and suspending Test from association with any FINRA member firm in any capacity for two months. The conduct described in the FINRA action occurred while Test was associated with Northwestern Mutual Investment Services, LLC, a member securities firm.
5. Specifically, FINRA found that after seven of Test's investment clients at that firm signed new account documents, Test realized the clients had not checked certain boxes required for the transactions. FINRA further found that Test checked those boxes himself, placed his clients' initials next to each box without their knowledge or consent, and submitted the falsified documents to that firm. FINRA concluded this caused that member firm to maintain inaccurate books and records.
6. Test failed to inform TDI of this administrative action taken against him by a financial regulator on a monthly basis after January 19, 2023.

Misrepresentation in Renewal License Application

7. On or about May 5, 2023, Test submitted a renewal license application to TDI in which he failed to disclose the FINRA action, and falsely answered the following question:

Question: "Have you been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration

proceeding regarding any professional or occupational license or registration, which has not been previously reported to this insurance department."

Answer: "No"

8. By answering "no" to this question, Test made a material misstatement in order to obtain a license from TDI.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 4001.002, 4005.101, 4005.102, and 4054.051; and TEX. GOV'T CODE §§ 2001.051-2001.178.
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. Test has knowingly and voluntarily waived all procedural rights to which he 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. Test has engaged in dishonest acts or practices as contemplated by TEX. INS. CODE § 4005.101(b)(5).
5. Test has intentionally made a material misstatement in his license application as contemplated under TEX. INS. CODE § 4005.101(b)(2).
6. Test obtained a license by misrepresentation as contemplated under TEX. INS. CODE § 4005.101(b)(3).
7. Test failed to notify TDI of an administrative action taken by a financial regulator of the United States on a monthly basis, as required by TEX. INS. CODE § 4001.252(a)(3).

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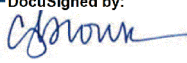
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Order

It is ordered that David Brian Test pay an administrative penalty of \$1,500 within 30 days from the date of this order. The administrative penalty must be paid as instructed in the invoice, which the TDI 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
Fraud and Enforcement Division



Sarah White, Staff Attorney
Enforcement

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Affidavit

STATE OF Texas §
 §
COUNTY OF Collin §

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

"My name is David Brian Test. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I have knowingly and voluntarily entered into the foregoing 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."

David Brian Test

Affiant

SWORN TO AND SUBSCRIBED before me on 08/15/23, 2023.

(NOTARY SEAL)



K. Rathod

Signature of Notary Public

KAUSHIK RATHOD

Printed Name of Notary Public