

4274

No. _____

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

Date: JAN 22 2016

Subject Considered:

Jason Kyle Gatzka
4238 Winterborne Drive
Pasadena, Texas 77505

DEFAULT ORDER

SOAH Docket No. 454-16-1220.C
TDI Enforcement File No. 9144

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Jason Kyle Gatzka.

FINDINGS OF FACT

1. According to department records, Jason Kyle Gatzka, individual identification number 1085702, obtained a general lines insurance license from TDI in December 2011, which expired in December 2013 when Gatzka did not seek renewal.
2. The last known mailing address for Gatzka is 4238 Winterborne Drive, Pasadena, Texas 77505.
3. On November 20, 2015, the department sent a notice of hearing to Gatzka's last known mailing address. The department also sent the notice of hearing to one additional address known to be used by Gatzka.
4. Gatzka failed to file a written response to the notice of hearing.
5. Gatzka failed to appear in person or through a representative at the hearing that was held on December 21, 2015.

6. Telly Smith (Smith) is an individual who has resided in Harris County, Texas.
7. Gatzka is one of Smith's associates.
8. Kimberly Yeldell McCoy (McCoy) is one of Smith's associates. McCoy is commissioned as a notary public in Texas. In July 2013, TDI issued McCoy a county mutual agent license, which expired in July 2015 when McCoy did not seek renewal. McCoy has never held an escrow officer license issued by TDI.
9. On or about December 6, 2010, Smith registered an assumed name in Harris County. Smith's assumed name is Exodus Title Company, which is not a business organization that is licensed by TDI or registered with the Texas Secretary of State. Smith has never held a license or authorization issued by TDI.
10. However, TDI has issued a title agent license to Exodus Title, LLC, an entity that is not affiliated with Smith or Smith's assumed name.
11. Smith used his assumed name Exodus Title Company to mislead lenders from whom Smith and Gatzka sought to borrow money. Smith created a website, www.exodustitlecompany.com, and advertised that Exodus Title Company was able to sell title insurance in Texas.
12. On more than one occasion, Smith obtained title insurance commitments from a licensed title insurance agent. Smith manipulated these title commitments to falsely represent that the commitments had been issued by Exodus Title Company. Smith presented these fraudulent commitments to lenders.
13. On more than one occasion, Smith presented settlement statements to lenders that identified the settlement agent as Exodus Title Company.
14. By providing to lenders these title insurance commitments and settlement statements, Smith knowingly made false representations that Smith d/b/a Exodus Title Company was authorized to transact title insurance business in Texas. The lenders relied on these false representations and loaned money to entities controlled by Smith. The lenders have been harmed by Smith's conduct.
15. In October 2012, Gatzka entered a contract to purchase property owned by Pan Atlantic Investments, Inc. Gatzka agreed to pay \$175,800 cash and give Pan Atlantic a \$703,200 note.

16. Pan Atlantic required Gatzka to demonstrate his ability to pay the seller-financing loan. Gatzka gave the seller a bank statement that represented Gatzka had more than \$432,000 in a checking account. In fact, Gatzka had only \$6.20 in this account at this time. Pan Atlantic relied on Gatzka's fraudulent bank statement and was harmed by Gatzka's false representation. Gatzka has presented falsified financial statements to another lender on at least one other occasion.
17. Gatzka recommended that they open an escrow at Exodus Title Company. Pan Atlantic agreed, and sent the earnest money contract and closing instructions to an email address for Exodus Title Company that Gatzka provided.
18. Gatzka represented to Pan Atlantic that Exodus Title Company had received Gatzka's purchase funds. In fact, Gatzka never gave any money to Exodus Title Company. When Pan Atlantic did not receive the sale proceeds, it confronted Exodus Title Company.
19. On November 10, 2012, Pan Atlantic executed a deed to Gatzka notarized by McCoy. However, this deed never was recorded. Instead, on November 16, 2012, a deed from Pan Atlantic to EHG Investments, LLC was recorded. EHG Investments is controlled by Smith. Pan Atlantic did not execute, or otherwise authorize, the deed to EHG Investments.
20. In late November 2012, Pan Atlantic requested a title report from another title insurance company and discovered the deed to EHG Investments. Exodus Title Company explained that a third party recording company had mixed up documents between two transactions, and represented that it would correct the problem. Pan Atlantic canceled the transaction with Gatzka.
21. On December 18, 2012, EHG Investments, under Smith's signature, executed a deed of trust for Pan Atlantic's property as security for a loan from a third-party lender. EHG Investments did not have authority to execute this deed of trust.
22. In 2013, Smith obtained a second fraudulent loan on Pan Atlantic's property. On May 16, 2013, a deed was recorded purporting to convey Pan Atlantic's property to TJS Holdings, LLC, another entity controlled by Smith. On June 5, 2013, TJS executed a deed of trust notarized by McCoy. Also on June 5, McCoy signed a settlement statement on behalf of Exodus Title Company promising to disburse the loan funds accordingly. In fact, Pan Atlantic never conveyed the property to TJS Holdings. Smith paid McCoy to notarize documents and sign settlement statements.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction pursuant to TEX. INS. CODE §§ 82.051 – 82.056, 4005.101, and 4005.107; and TEX. GOV'T CODE §§ 2001.051 – 2001.178.
2. The commissioner has authority to dispose of this case informally pursuant to TEX. GOV'T CODE § 2001.056; and 28 TEX. ADMIN. CODE §§ 1.47, 1.88, and 1.89.
3. TDI sent a notice of hearing to Gatzka'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.
4. The allegations in the notice of hearing, set out as findings of fact numbers 6 – 22, are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.
5. Gatzka engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5).
6. Gatzka committed conduct for which he may be disciplined prior to the automatic forfeiture of his general lines insurance license, as contemplated by TEX. INS. CODE § 4005.107.

The commissioner revokes the general lines insurance license issued to Jason Kyle Gatzka.



David C. Mattax
Commissioner of Insurance

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.

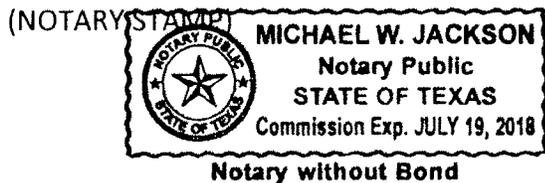
I have reviewed TDI’s records concerning Jason Kyle Gatzka. I have confirmed that:

- a. the last mailing address Jason Kyle Gatzka provided to the department in writing was 4238 Winterborne Drive, Pasadena, Texas 77505;
- b. the file maintained by the Enforcement Section of the Compliance Division contains a notice of hearing that was served on Jason Kyle Gatzka and filed with the State Office of Administrative Hearings November 20, 2015;
- c. a certified letter, return receipt requested, and a first class mailing, both containing a notice of hearing addressed to Jason Kyle Gatzka’s last known address, were deposited in the United States mail.

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

Judy Lopez
Affiant

SWORN TO AND SUBSCRIBED before me on December 17, 2015.



M. Jackson
M. JACKSON
Signature of Notary Public

110-1A

Name and Address of Sender
 Texas Dept of Insurance
 Mail Code 110-1A
 333 Guadalupe St
 Austin TX 78701
 Ginger Yocom
 November 20, 2015

Check type of mail or service

Adult Signature Required
 Adult Signature Restricted Delivery
 Certified Mail
 Certified Mail Restricted
 Collect on Delivery (COD)
 Insured Mail
 Priority Mail

Priority Mail Express
 Registered Mail
 Return Receipt for Merchandise
 Signature Confirmation
 Signature Confirmation Restricted

Firm Mailing Book For Ac

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



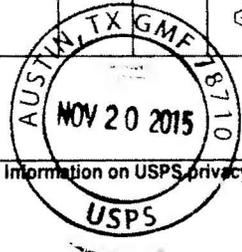
USPS Tracking/Article Number	Address (Name, Street, City, State, & Zip Code)	Postage	(Extra Service) Fee	Handling Charge	Actual Value # Registered	Insured Value	Due Sender # COO	ASR Fee	ASRD Fee	RD Fee	RR Fee	SC Fee
Casey/NOH	Telly Smith Garza West Unit TDCJ#01971983 4250 Highway 202 Beeville, Texas 78102-8982	0.705										
Casey/NOH	Jason Kyle Gatzka 4238 Winterborne Dr. Pasadena, Texas 77505	0.705										
Casey/NOH	Jason Kyle Gatzka 3004 Maple Street Michigan City, Indiana 46360	0.705										
Casey/NOH	Kimberly Yeldell McCoy 3202 Oakland Lake Circle Missouri City, Texas 77459	0.705										
Casey/NOH	Kimberly Yeldell McCoy 9615 S. Gessner Drive Houston, Texas 77071	0.705										
Casey/NOH	Kimberly Yeldell McCoy 8421 Hearth Drive No. 21 Houston, Texas 77054	0.705										
Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office		Postmaster, Per (Name of receiving employee)								

Handling Charge if Registered and over \$50,000 in value

OFFICIAL BUSINESS
 STATE OF TEXAS
 PENALTY FOR PRIVATE USE

recpost # 11/20/2015
US POSTAGE \$002.28⁰⁰
 ZIP 78701
 041L12203074

Adult Signature
 Adult Signature Restricted
 Restricted Delivery
 Return Receipt
 Signature Confirmation
 Signature Confirmation Restricted Delivery
 Special Handling



4274

110-1A

Name and Address of Sender
 Texas Dept of Insurance
 Mail Code 110-1A
 333 Guadalupe St
 Austin TX 78701
 Ginger Yocom
 November 20, 2015

Check type of mail or service

Adult Signature Required
 Adult Signature Restricted Delivery
 Certified Mail
 Certified Mail Restricted
 Collect on Delivery (COD)
 Insured Mail
 Priority Mail
 Priority Mail Express
 Registered Mail
 Return Receipt for Merchandise
 Signature Confirmation
 Signature Confirmation Restricted Delivery

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

USPS Tracking/Article Number	Address (Name, Street, City, State, & Zip Code)	Postage	(Extra Service) Fee	Handling Charge	Actual Value # Registered	Insured Value	Due Sender # COD	ASR Fee	ASRD Fee	RD Fee	RR Fee	SC Fee	SCRD Fee	SH Fee
Casey/NOH 7014 2870 0002 2850 4325 ✓	Telly Smith Garza West Unit TDCJ#01971983 4250 Highway 202 Beeville, Texas 78102-8982	705	3 45								280			
Casey/NOH 7014 2870 0002 2850 4332 ✓	Jason Kyle Gatzka 4238 Winterborne Dr. Pasadena, Texas 77505	705												
Casey/NOH 7014 2870 0002 2850 4349 ✓	Jason Kyle Gatzka 3004 Maple Street Michigan City, Indiana 46360	705												
Casey/NOH 7014 2870 0002 2850 4356 ✓	Kimberly Yeldell McCoy 3202 Oakland Lake Circle Missouri City, Texas 77459	705												
Casey/NOH 7014 2870 0002 2850 4363 ✓	Kimberly Yeldell McCoy 9615 S. Gessner Drive Houston, Texas 77071	705												
Casey/NOH 7014 2870 0002 2850 4370 ✓	Kimberly Yeldell McCoy 8421 Hearth Drive No. 21 Houston, Texas 77054	705												
Total Number of Pieces Listed by Sender		Total Number of Pieces Received at Post Office		Postmaster, Per (Name of receiving employee)										

Handling Charge: If Registered and over \$50,000 in value

Adult Signature Required

Adult Signature Restricted Delivery

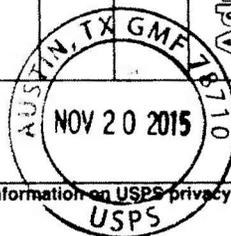
Restricted Delivery

Return Receipt

Signature Confirmation

Signature Confirmation Restricted Delivery

Special Handling



4274