

No. 4528

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

Date: JUN 21 2016

**Subject Considered:**

Texas Department of Insurance  
v.  
Evonne Senegal

SOAH Docket No. 454-15-1945.C

**General remarks and official action taken:**

The commissioner of insurance considers general lines life, accident, and health license. Following a hearing before the State Office of Administrative Hearings, the administrative law judge submitted a proposal for decision containing findings of fact and conclusions of law, recommending that Evonne Senegal's license should be revoked. The commissioner accepts the proposed findings of fact, conclusions of law, and recommendation of the ALJ with non-substantive formatting and style changes.

**FINDINGS OF FACT**

1. Evonne Senegal (Senegal) holds a general lines life, accident, and health license issued by the Texas Department of Insurance (Department) on January 2, 2012.
2. On January 14, 2015, the Department's staff (Staff) issued a Notice of Hearing in this case. The notice informed Senegal of several allegations of misconduct by her in violation of her duties and responsibilities under her license. It also informed her of the date, time, and location of the hearing; the matters to be considered; the legal authority under which the hearing would be held; and the statutory provisions applicable to the matters to be considered.
3. On March 6, 2015, Staff filed a motion to dismiss the case. The dismissal was requested following the issuance of Official Order No. 3846, which was issued by the commissioner of insurance in response to Senegal's failure to request a hearing within 20 days in response to the Notice of Hearing. The case was dismissed from the docket of the State Office of Administrative Hearings (SOAH) by order dated March 10, 2016.

4. On April 21, 2015, the commissioner of insurance issued an order granting Senegal a rehearing; setting aside the default judgment entered against her on March 3, 2015; and remanding the case to SOAH for a hearing.
5. On September 30, 2015, Staff served Senegal with Requests for Production. When Senegal failed to reply to the requests within 20 days, Staff filed a motion to compel on November 3, 2015.
6. On October 1, 2015, Staff served Requests for Disclosure on Senegal. When she failed to respond to the requests, Staff filed a motion to compel replies to them.
7. On November 18, 2015, the Administrative Law Judge (ALJ) issued Order No. 3 granting Staff's motions to compel. The order informed Senegal that her failure to serve written responses to Staff's Requests for Disclosure and Requests for Production by Monday, December 1, 2015, could result in the imposition of sanctions pursuant to 1 Texas Administrative Code § 155.157, including all available sanctions listed in that rule.
8. On December 3, 2015, Staff filed a Motion for Sanctions wherein it represented that Senegal failed to comply with Order No. 3. Staff requested that, in light of Senegal's failure to comply with the order, sanctions be imposed against her, including the following:
  - a. Deem all facts contained within allegation Nos. 1-19 of the October 14, 2015, TDI Second Amended Notice of Hearing admitted;
  - b. Prohibit Senegal from opposing any of the allegations against her;
  - c. Disallow any requests for relief by her and exclude any evidence offered by her in support of such requests; and
  - d. Strike all pleadings and testimony offered by her in connection with this case.
9. On December 18, 2015, the ALJ Judge issued Order No. 5, setting a hearing on February 3, 2016, to consider the motion for sanctions.
10. At the February 3, 2016, hearing on Staff's motion for sanctions, Staff appeared and announced ready. Senegal did not appear. After concluding that Senegal was duly notified of the hearing, the ALJ heard argument from Staff in support of its request for sanctions. Following Staff's presentation, the ALJ concluded that, based on Senegal's failure to comply with the ALJ's Order No. 3—Ruling on Motions to Compel, most of the relief sought by Staff should be granted.

11. The ALJ's Order No. 6—Granting Sanctions and Continuing Hearing granted the following sanctions against Senegal:
  - a. At the hearing on the merits, she would be prohibited from opposing any of TDI's allegations;
  - b. Any requests for relief by her would be denied;
  - c. Any evidence offered by her in support of requests for relief would be denied; and
  - d. Any pleadings and testimony offered by her would be stricken.
12. On March 4, 2016, Staff filed a Motion for Summary Disposition. Senegal did not file a response to the motion.
13. On September 26, 2013, Reliable Life Insurance Company (Reliable) notified Senegal that all of her appointments with Reliable within the state of Texas would be canceled.
14. On September 26, 2013, Reliable notified the Department that it had terminated Senegal's employment effective September 20, 2013, after several of Senegal's accounts were found to be deficient.
15. An audit revealed that Senegal had collected approximately \$8,547.62 in insurance premium payments from 70 Reliable policyholders, which she failed to forward to Reliable.
16. When asked about the premium payments, Senegal initially stated that she had not received them from the policyholder. After being shown multiple personal signatures found within Reliable's premium receipt books retained by policyholders, Senegal claimed her money bag was stolen from her car.
17. When asked to provide a police report regarding the money bag she claimed was stolen from her, Senegal stated that she had not filed such a report.
18. On multiple occasions, Reliable notified Senegal that an audit revealed she owed Reliable \$8,547.62 in deficiencies.
19. Senegal did not make any attempt to reduce her balance with Reliable.
20. On June 5, 2014, Staff sent Senegal a Request for Information under Texas Insurance Code § 38.001. She was required to respond to it within 15 days.

21. Senegal did not respond to the June 5, 2014, Request for Information.
22. On July 14, 2014, Staff sent Senegal a second Request for Information under Texas Insurance Code § 38.001, which required her to respond in writing within 15 days.
23. Senegal did not respond to the July 14, 2014, Request for Information.
24. On August 15, 2014, Staff sent Senegal a third Request for Information under Texas Insurance Code § 38.001. The Request for Information informed her that the Department had received notification from Reliable that the company had terminated her appointments because she collected insurance premiums in the amount of \$8,547.62 that she did not remit to Reliable. The Department requested that Senegal provide a written response to the issue and that she describe any corrective action she had taken to resolve the issue with Reliable.
25. On August 27, 2014, the Department received a written response from Senegal that failed to address the specific requests contained in the August 15, 2014, Request for Information. She also failed to provide any explanation for her failure to remit any of the \$8,547.62 in insurance premiums she had collected from Reliable policyholders.
26. On September 10, 2014, Staff sent Senegal a fourth Request for Information under Texas Insurance Code § 38.001. The request stated that Senegal's response dated August 25, 2014, did not contain any documentation or other proof supporting her position.
27. Senegal did not respond to the September 10, 2014, Request for Information.
28. Senegal failed to forward any of the \$8,547.62 of collected premiums to Reliable.

## CONCLUSIONS OF LAW

1. The Department has jurisdiction to decide this matter. Tex. Ins. Code §§ 82.051 - 82.052, 4005.101 - 4005.102, 4051.051, 4053.051, 4054.051.

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2. SOAH has jurisdiction over matters relating to the conduct of the hearing and issuance of a recommendation in the form of a proposal for decision. Tex. Ins. Code § 4005.104; Tex. Gov't Code ch. 2003.
3. Adequate and timely notice was provided to Senegal. Tex. Gov't Code §§ 2001.051 - 2001.052.
4. Senegal misappropriated or converted to her own use, or illegally withheld, money belonging to an insurer, as contemplated in Texas Insurance Code § 4005.101(b)(4)(A).
5. Senegal repeatedly failed to respond to letters of inquiry issued by the Department under Texas Insurance Code § 38.001.
6. Under Texas Insurance Code § 4005.102, the Department may suspend or revoke Senegal's license for a violation of the Insurance Code.
7. Senegal's general lines life, accident, and health license issued by the Department should be revoked.

The commissioner of insurance orders that Evonne Senegal's general lines life, accident, and health license be revoked.



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David C. Mattax  
Commissioner of Insurance