

No. 2016- 4853

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

Date: DEC 15 2016

Subject Considered:

RICHARD DEWAYNE HICKS
936 Troup Hwy
Tyler, Texas 75701

DEFAULT ORDER
SOAH DOCKET NO. 454-17-1016.C
TDI ENFORCEMENT FILE NO. 8807

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Richard Dewayne Hicks.

FINDINGS OF FACT

The commissioner makes the following findings of fact:

1. Richard Dewayne Hicks, individual identification number 68045, holds a general lines agent license with a life, accident and health qualification issued by the Texas Department of Insurance on December 30, 1987.
2. On November 9, 2016, TDI sent a notice of hearing to Hicks' last known address provided in writing to the department, 936 Troup Hwy, Tyler, Texas 75701. The department also sent the notice of hearing to Hicks by electronic mail.
3. Hicks failed to file a written response to the notice of hearing within 20 days of the date the notice of hearing was mailed.
4. In September 2001, Hicks was enjoined by the Unauthorized Practice of Law (UPL) Committee for the Supreme Court of Texas for practicing law without a license.
5. In 2005, Hicks entered into an oral agreement with attorney Peter Milne to act as a paralegal. In 2013, Mr. Milne brought a lawsuit against Hicks for providing unauthorized legal services. The court found that Hicks provided unauthorized legal services to 107

- clients, violated the UPL agreement, fraudulently received \$430,000 in fees, and defrauded his clients and Mr. Milne.
6. Hicks solicited and sold 12 clients a multi-million dollar investment scheme orchestrated by National Note of Utah LC. National Note is a Utah-based company involved in real estate loans and transactions. Hicks advised prospective investors on the specific details and merits of the investments and received transaction-based commissions.
 7. From December 2006, to February 2012, Hicks solicited 12 clients to purchase approximately \$1.8 million in National Note securities. The Securities and Exchange Commission determined that at least half of the investors were unaccredited and unsophisticated. The SEC further determined that Hicks lied on the Purchaser Representative Questionnaire and failed to disclose his commission for the sale of National Note securities. Hicks was at no time licensed or registered as an agent, dealer or investment advisor to sell securities in Texas.
 8. In October 2011, Hicks was made aware that National Note was unable to fulfill its financial obligations to existing clients, but he continued to solicit new clients. Hicks made no attempt to inform his new clients of National Note's financial trouble prior to their purchase.
 9. In November 2013, Hicks admitted that he failed to disclose over \$128,000 in federal tax liens.
 10. On November 7, 2013, Hicks was placed on 10 years of deferred adjudication for the first degree felony offense of fraud sell securities and ordered to pay \$243,686.89 in restitution to his clients.

CONCLUSIONS OF LAW

The commissioner makes the following conclusions of law:

1. The commissioner has jurisdiction pursuant to TEX. INS. CODE §§ 82.051-82.056, 4001.002, 4005.101-4005.102, and 4054.051; TEX. GOV'T CODE §§ 2001.051 - 2001.178; TEX. OCC. CODE §§ 53.021-53.023; and 28 TEX. ADMIN. CODE § 1.502.
2. TEX. GOV'T CODE § 2001.056; TEX. INS. CODE § 82.055; and 28 TEX. ADMIN. CODE §§ 1.47, 1.88, and 1.89 give the commissioner authority to dispose of this case informally.
3. Based on 28 TEX. ADMIN. CODE § 19.906, Hicks' last known address is presumed to be 936 Troup Hwy, Tyler, Texas 75701.
4. The department sent a notice of hearing to Hicks' 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.

COMMISSIONER'S ORDER

Richard Dewayne Hicks

Page 3 of 4

5. The department's allegations in the notice of hearing, set out herein as findings of fact nos. 1 and 4-10, are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.
6. Hicks has committed acts for which a license may be revoked under TEX. INS. CODE § 4005.101, as contemplated by TEX. INS. CODE § 4005.102.
7. Hicks has engaged in fraudulent or dishonest acts or practices in violation of TEX. INS. CODE § 4005.101(b)(5).
8. Hicks was placed on deferred adjudication for an offense that directly relates to the duties and responsibilities of the licensed occupation, as contemplated in TEX. OCC. CODE § 53.021(a)(1) and 28 TEX. ADMIN. CODE § 1.502(d).
9. Pursuant to TEX. OCC. CODE § 53.021(c)-(d), the commissioner may consider Hicks to have been convicted of the offense of fraud sell securities because:
 - a. Hicks has not completed the period of supervision; and
 - b. after consideration of the factors in TEX. OCC. CODE §§ 53.022 and 53.023(a), the commissioner determines that:
 - i. Hicks may pose a continued threat to public safety; or
 - ii. Employment of Hicks in the licensed occupation would give him the opportunity to repeat the prohibited conduct.

The commissioner of insurance orders that Richard Dewayne Hicks' general lines agent license with a life, accident and health qualification is revoked.



David C. Mattax
Commissioner of Insurance

AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

“My name is Ginger Yocom 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.

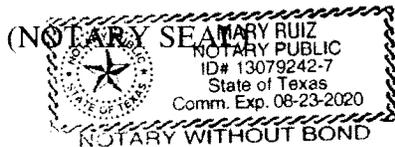
I have reviewed TDI’s records concerning Richard Dewayne Hicks. I have confirmed that:

- a. The last mailing address provided to the department by Hicks in writing was 936 Troup Hwy, Tyler, Texas 75701.
- b. The file maintained by the Enforcement Section of the Compliance Division contains a notice of hearing dated November 9, 2016, filed with the State Office of Administrative Hearings.
- c. Certified letters, return receipts requested, and first class mailings, each containing a notice of hearing, were sent to Hicks’ last known address.

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

Ginger Yocom
Affiant

SWORN TO AND SUBSCRIBED before me on December 14, 2016.



Mary Ruiz
Signature of Notary Public
Mary Ruiz
Printed Name of Notary Public

