

No. 2017- 4966

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

Date: FEB 28 2017

**Subject Considered:**

ERIC RUSSEK, P.E.  
2028 Cutter Drive  
League City, Texas 77573

**CONSENT ORDER**  
TDI ENFORCEMENT FILE NO. 11211

**General remarks and official action taken:**

The commissioner of insurance considers whether disciplinary action should be taken against Eric Russek, P.E.

**WAIVER**

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

**FINDINGS OF FACT**

1. The Texas Department of Insurance appointed Russek as a qualified inspector to perform building inspections for the purpose of establishing that building or structures are eligible for windstorm and hail insurance through the Texas Windstorm Insurance Association (TWIA).
2. Russek's license number is 62847.

**270 Barracuda, Bayou Vista, Texas**

3. TDI received an Application for Windstorm Building Inspection Form WPI-1 (WPI-1) on August 7, 2015, for an entire re-roof and alteration on the residential structure located at 270 Barracuda, Bayou Vista, Texas (Barracuda Re-Roof). The WPI-1 listed Russek as the engineer-of-record.
4. TDI received an Inspection Verification Form WPI-2-BC-5 (WPI-2-BC-5) for the Barracuda Re-Roof on August 7, 2015. The WPI-2-BC-5 listed Russek as the engineer-of-record for the structure and contained his engineering seal and signature.

5. By his submission of the WPI-2-BC-5, Russek certified that he was personally responsible as the engineer-of-record for the windstorm inspection of the Barracuda Re-Roof and that he provided standard and customary review services, including inspections of the Barracuda Re-Roof.
6. Russek further certified that the Barracuda Re-Roof was designed and inspected in compliance with the wind load provisions of *International Residential Code, 2006 Edition (Amended with 2006 Texas Revisions)*(IRC 2006). Russek certified that the 120 mph, 3-second gust design conditions were used. Russek certified that inspections were conducted on June 4, 2015, June 6, 2015, June 9, 2015, and June 19, 2015. Russek stated that he understood and intended that TDI would rely on his statement of compliance in determining whether to issue a WPI-8 for the structure and to notify TWIA the structure was eligible for windstorm insurance.
7. Based on Russek's certification, TDI issued a Certificate of Compliance, Form WPI-8 (WPI-8) for the Barracuda Re-Roof on August 28, 2015.
8. On March 16, 2016, TDI received a complaint from the homeowner, regarding concerns about the roof and the certification of the Barracuda Re-Roof.
9. In response to the complaint, TDI conducted an inspection of the Barracuda Re-Roof on March 29, 2016. TDI met with the homeowner, the contractor, and Russek during the inspection. TDI found deficiencies with the re-roof during the inspection.
10. TDI sent Russek an email on April 1, 2016. The email contained a memo that outlined the deficiencies found during TDI's March 29, 2016 inspection.
11. On April 5, 2016, TDI received Russek's response to TDI's memo. Russek's response contained design and construction documentation for the following:
  - a. Component and cladding wind pressures;
  - b. TDI product evaluation report;
  - c. Manufacturer technical product data;
  - d. Construction inspection reports; and
  - e. Construction photographs.
12. TDI sent a certified letter to Russek on April 6, 2016. The letter outlined the findings of the March 29, 2016 inspection and the documents provided by Russek on April 5, 2016. The letter further requested additional information from Russek and reminded Russek of his obligation to respond within 15 days.
13. On April 24, 2016, Russek requested a 10 day extension to respond to TDI's request for information. TDI granted Russek an extension until May 5, 2016.

14. On May 4, 2016, TDI received Russek's response to TDI's April 6, 2016, letter. Russek's response contained design and construction documentation for the following:
  - a. Revised component and cladding wind pressures; and
  - b. Homasote Easy-Ply roof deck data and specifications.
15. TDI sent an email to Russek on May 10, 2016, to discuss his May 4, 2016, response and TDI's concerns. The email requested Russek's plan of action to bring the roof into compliance.
16. On May 12, 2016, TDI received an email response from Russek.
17. TDI sent a certified letter to Russek on May 20, 2016. The letter outlined the deficiencies in Russek's response and TDI's concerns with the re-roof. The letter further stated that Russek failed to provide the requested documentation to TDI and therefore the matter would be referred to TDI's Enforcement Section for appropriate action.
18. On October 19, 2016, Russek met with TDI to discuss the Barracuda Re-Roof. At the meeting, TDI requested supplemental documentation.
19. TDI received supplemental documentation from Russek on November 10, 2016.

#### CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter pursuant to TEX. GOV'T CODE §§ 2001.051-2001.178; TEX. INS. CODE §§ 82.051-82.055 and 2210.001-2210.256; and 28 TEX. ADMIN. CODE § 5.4604.
2. The commissioner has the authority to dispose of this case informally pursuant to the provisions of TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104, 82.055, and 2210.256(e); and 28 TEX. ADMIN. CODE §§ 1.47 and 5.4604(f)(3).
3. Russek failed to comply with 28 TEX. ADMIN. CODE §§ 5.4604(g) and 5.4604(h).

The commissioner of insurance orders that the qualified inspector appointment held by Eric Russek, P.E. be placed on probation for six months, effective as of the date of this order. Russek's probation is subject to the following terms and conditions:

1. These terms and conditions apply to all inspections performed on or after the date of this order for the purpose of establishing that a building, structure, addition, alteration, roof, foundation, or repair is eligible for wind and hail insurance and all WPI-1s and WPI-2s submitted on or after the date of this order.
2. Any requirement in this order for Russek to submit methods of installation or contractor methods of installation means:

- a. the manufacturer's recommended method(s) for installation;
  - b. the method(s) of installation set out in the builder's plan and specifications;
  - c. the applicable TDI product evaluation, independent testing laboratory report, model code product evaluation report, or manufacture's high wind installation requirements; and
  - d. other construction standards adopted by the commissioner.
3. Russek will not act as a qualified inspector on any structure unless he or another person has submitted a WPI-1 to windstorm inspections prior to beginning to construct, alter, remodel, enlarge, or repair a structure. Russek will notify windstorm inspections, through submission of a WPI-1 by him or another person, of his intention to perform building inspections to establish that the structure is eligible for windstorm and hail insurance, as contemplated by TEX. INS. CODE § 2210.251.
4. If Russek deviates from the prescriptive building codes or construction guides adopted by the commissioner, windstorm inspections will require Russek to prepare and submit plans and structural calculations, as contemplated in 28 TEX. ADMIN. CODE § 5.4623.
5. Windstorm plans and structural calculations for structures will include, when applicable, the following information:
- a. The applicable building code standard used, the wind load standard used, the wind speed used, the wind importance factor used, and the exposure category used in the design of the structure;
  - b. A summary of the wind loads acting on the structure for the design of the main wind force-resisting systems, components, and cladding;
  - c. The uplift loads and building components used to transfer uplift loads caused by the applied wind loads from the roof down to the foundation;
  - d. The lateral shear loads and the building components used to transfer lateral shear loads caused by the applied wind loads from the roof down to the foundation;
  - e. The overturning loads and the building components used to transfer overturning loads caused by the applied wind loads from the roof down to the foundation;
  - f. Design of connections to transfer wind loads from one element to the next from the roof down to the foundation;
  - g. Roof cladding and roof framing connections;

- h. Roof deck type and anchorage method, including fastener type and spacing;
  - i. Wall connections to the roof, floor, diaphragms, and framing;
  - j. Roof and floor diaphragm systems, including collectors, drag struts, and boundary elements;
  - k. Vertical wind force resisting systems, including braced frames, moment frames, and shear walls;
  - l. Windforce resisting system connections to the foundation;
  - m. Foundation design, including the overturning resistance of the foundation system;
  - n. Design pressure requirements for any roof or exterior covering used on a structure;
  - o. Type of roof covering or exterior covering and anchorage method, including fastener type and spacing;
  - p. Type of soffit material and anchorage method, including fastener type and spacing;
  - q. Design pressure and high wind installation requirements for all exterior opening products, including windows, doors, garage doors, and skylights; and
  - r. The methods for protecting exterior openings from windborne debris, when applicable.
6. Russek must clearly mark windstorm plans and structural calculations with the words "WINDSTORM COMPLIANT PLANS." If Russek utilizes plans provided by the structure's builder and prepares modifications to the plans necessary to ensure that the modified plans meet the wind load requirements of the construction standards adopted by the commissioner, Russek must clearly mark such plan modifications with the words "WINDSTORM COMPLIANT PLANS."
7. As a part of the inspection process, Russek must determine, and the appointed engineer or the appointed engineer's employee will confirm building code compliance of the building products used during the construction process by obtaining and utilizing the following information during the design and inspection of the structure:
- a. test information;
  - b. model code or department product evaluation reports; or
  - c. manufacturer's high wind installation requirements.

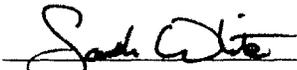
8. Russek must provide windstorm inspections with the name, address, telephone number, resume, and qualifications, of all individuals performing building inspections under his supervision for the purpose of establishing that a structure is eligible for wind and hail insurance.
9. Russek must perform follow-up or joint inspections with each individual identified in (8) on a weekly basis to ensure that the construction of structures conforms to the requirements set forth by Russek. On request by windstorm inspections, Russek must provide copies of signed and sealed inspection records for each of the inspections.
10. Russek must prepare quality control procedures or guidelines to ensure that inspections conducted by employees under his supervision are properly conducted. Russek must submit the quality control procedures to windstorm inspections for review.
11. Russek must prepare an inspection form or report, to be used during each of the inspections. Each inspection form or report will include, but is not limited to, the following information:
  - a. complete address of location being inspected;
  - b. type of inspection;
  - c. date and time of inspection;
  - d. status of inspection;
  - e. type of construction;
  - f. wind zone;
  - g. exposure category;
  - h. mean roof height;
  - i. products or a copy of the builder's specifications and the windstorm plans, and any deviations;
  - j. manufacturers of the products identified in (7) if not stated in the builder's specifications or windstorm plans;
  - k. product testing information of the products identified in (7);
  - l. manufacturer installation requirements of the products identified in (7);
  - m. deviations from the contractor methods of installation established by the manufacturer's recommendations;

- n. the on-site compliance report, including the printed name and signature of the inspector; and
  - o. a reference to the appropriate windstorm plans for the building plan.
12. If Russek begins conducting building inspections under the supervision of an engineer appointed as a qualified inspector for the purposes of establishing that a structure is eligible for windstorm and hail insurance, Russek will notify windstorm inspections within 24 hours.
13. This order and the conditions of probation apply to any inspection Russek certifies or performs individually as an appointed qualified inspector, as well as those conducted under the supervision of another engineer appointed as a qualified inspector.
14. Russek must comply with TEX. INS. CODE §§ 2210.251, 2210.254, and 28 TEX. ADMIN. CODE §§ 5.4601-5.4642. Any violation of the Texas Insurance Code, Texas Administrative Code, or the terms of this order, may result in disciplinary action against Russek and his appointment as a qualified inspector, pursuant to TEX. INS. CODE § 2210.256.



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David C. Mattax  
Commissioner of Insurance  
By: Kevin Brady, Deputy Commissioner  
Delegation Order 4506

APPROVED AS TO FORM AND CONTENT:



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Sarah White, Staff Attorney  
Texas Department of Insurance

AFFIDAVIT

STATE OF Texas

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COUNTY OF Balveston

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

“My name is Eric Russek. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I am waiving rights provided by the Texas Insurance Code and other applicable law and acknowledge the jurisdiction of the commissioner of insurance.

I voluntarily enter into this consent order and consent to the issuance and service of this consent order.”

Eric Russek

Affiant

SWORN TO AND SUBSCRIBED before me on February 16, 2017.

(NOTARY STAMP)

Carson Sadro  
Signature of Notary Public

