

No. 2017- 5038

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

Date: APR 24 2017

Subject Considered:

DEREK JARROD SAMPLE
20501 Katy Freeway, Suite 138B
Katy, Texas 77450

CONSENT ORDER
SOAH DOCKET NO. 454-15-2884.C
TDI ENFORCEMENT FILE NO. 8461

General remarks and official action taken:

The commissioner of insurance considers whether disciplinary action should be taken against Derek Jarrod Sample.

WAIVER

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

Pursuant to TEX. INS. CODE § 82.055(b), Sample agrees to this consent order with the express reservation that he does not admit to a violation of the insurance code or of a rule, and that the existence of a violation is in dispute.

FINDINGS OF FACT

The commissioner makes the following findings of fact:

1. Derek Jarrod Sample, individual identification no. 477742, holds a general lines agent license with a life, accident, and health qualification, originally issued by the Texas Department of Insurance on December 14, 2001. Sample also attained a property and casualty qualification for his general lines agent license on May 6, 2002.
2. Between April 2011 and May 2014, Sample submitted 79 applications for homeowners' insurance policies to Farmers Insurance Group without valid signatures from the insureds. Sample did not collect premium payments for the policies. Sample later manually cancelled the policies prior to automatic cancellation without obtaining a signed request to cancel the

policies. On several occasions, Sample reinstated policies and subsequently cancelled the policies again prior to premium payments being due.

3. Sample used this scheme to collect approximately \$52,000 in advanced commissions after Farmers applied charge backs to his account. Subject to Sample voluntarily entering into this consent order, Farmers has represented in writing to the department that it is not seeking restitution for the advanced commissions owed through this Enforcement case.

CONCLUSIONS OF LAW

The commissioner makes the following conclusions of law:

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.001-82.056, 84.021-84.022, 4005.101, 4005.102, 4051.051, and 4054.051, and TEX. GOV'T CODE §§ 2001.051-2001.178.
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 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Pursuant to TEX. INS. CODE § 4005.101(b)(5), the commissioner may take disciplinary action against Sample because he engaged in fraudulent or dishonest acts or practices.
4. Pursuant to TEX. INS. CODE § 4005.101(b)(4), the commissioner may take disciplinary action against Sample because he misappropriated, converted to his own use, or illegally withheld money belonging to an insurer.

The commissioner of insurance orders that the general lines agent license issued to Derek Jarrod Sample is suspended for one year, probated.

If, during the probation period imposed by this order, the department issues any additional licenses or authorizations to Derek Jarrod Sample, those additional licenses or authorizations will be suspended until the probation period imposed by this order has ended. The suspension shall be probated, and the same terms and conditions stated in this order will apply.

Beginning from the date of this order and continuing through the probation period, Sample must file a written report, on or before the 15th day of each month on a quarterly basis for the months of May, August, November, and February, with the Texas Department of Insurance, Attn: Catherine Bell or her successor, Enforcement Section, Mail Code 110-1A, P.O. Box 149104, Austin, Texas 78714-9104. The reports must include the following information:

- a. Sample's current mailing address and telephone number;
- b. the name, mailing address, and telephone number of Sample's employer, and if Sample is self-employed, a statement that he is self-employed and the name, mailing address, and telephone number of his business;
- c. the name and address of any insurer that has appointed Sample as a general lines agent;

- d. the name and address of any insurer that has canceled Sample's appointment as a general lines agent; and
- e. a copy of any and all contracts Sample has entered into with an insurer, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.

Sample must notify the department immediately of the following:

- a. any charges or indictments filed against him for a misdemeanor or felony during the period he is required to file reports, excluding traffic offenses and Class C misdemeanors;
- b. any state or regulatory actions taken against him including formal and informal actions;
- c. any change in his employment or his residence; and
- d. any complaint made against Sample concerning his performance as an insurance agent, as well as a written explanation detailing the steps taken to resolve it.

The commissioner of insurance orders Derek Jarrod Sample to complete an additional six hours of continuing education in ethics within one year from the date of this order. These six hours are in addition to, and shall not be applied toward, the continuing education hours required by TEX. INS. CODE § 4004.053. Sample must send proof of completion of the additional hours to the Texas Department of Insurance, Attn: Catherin Bell, or her successor, Enforcement Section, MC 110-1A, P.O. Box 149104 within 13 months of the date of this order.

The commissioner of insurance also orders Derek Jarrod Sample to pay an \$8,000 administrative penalty within 90 days from the date of this order. The administrative penalty must be paid by cashier's check or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Catherine Bell, or her successor, Enforcement Section, Division 40111, MC 9999, P.O. Box 149104, Austin, TX 78714-9104.



Kevin Brady
Deputy Commissioner For Agency Affairs
Texas Department of Insurance
Delegation Order 4506

APPROVED AS TO FORM AND CONTENT:



Elissa Mazza
Staff Attorney
Enforcement Section, Legal & Enforcement Division
Texas Department of Insurance

Affidavit

STATE OF TEXAS

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COUNTY OF Harris

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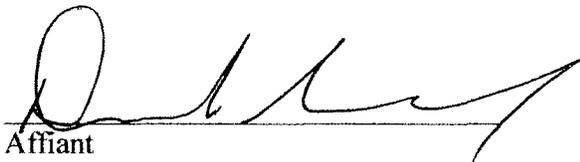
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Before me, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

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

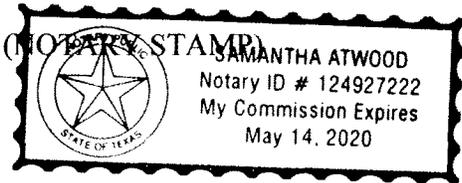
I waive rights provided by the Texas Insurance Code and other applicable law and acknowledge the jurisdiction of the commissioner.

I have knowingly and voluntarily entered into this 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.”



Affiant

SWORN TO AND SUBSCRIBED before me on this 30 day of March, 2017.





Signature of Notary Public