

No. 2017-5225

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

Date: SEP 20 2017

Subject Considered:

GUILLERMO MAGDALENO
1210 Ganton Lane
San Antonio, TX 78260

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 13168

General remarks and official action taken:

This order is in consideration of whether a life agent license should be issued to Guillermo Magdaleno.

WAIVER

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

FINDINGS OF FACT

1. On November 10, 2016, Magdaleno applied for a life agent license. On March 7, 2017, the department proposed to deny Magdaleno's application, and he timely submitted a written request for a hearing.
2. On September 13, 2012, the State of California Department of Insurance entered an Order of Summary Revocation revoking Magdaleno's license as an Accident and Health Agent, Life Only Agent, Property Broker Agent, and Casualty Broker Agent.
 - a. The California Order revoked Magdaleno's licenses because: "[O]n April 30, 2012, in Case No. C1117144, in the Superior Court of California, County of Santa Clara, Respondent was convicted upon a plea of nolo contendere of presenting false or misleading information on an insurance claim, in violation of Section 550 (b)(1) of the California Penal Code; a misdemeanor."

- b. Magdaleno failed to disclose the California license revocations on his Texas life agent license application.
 - c. Magdaleno filed and the California court granted on January 28, 2014, a *Petition for Modification or Change of Terms of Probation and Petition and Order Under Section 1203.4, 1203.4a and 17 of the Penal Code*, which terminated Magdaleno's criminal probation early and cleared his record of the underlying offense.
3. Due to Magdaleno's failure to disclose the revocation of his California insurance licenses, the department needs an opportunity to monitor his insurance activities to ensure he demonstrates the ability, capability, and fitness required to perform and discharge the responsibilities of a life agent.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4001.102, 4001.105, 4005.101, and 4054.301; TEX. GOV'T CODE §§ 2001.051-2001.178; 28 TEX. ADMIN. CODE § 1.502; and TEX. OCC. CODE §§ 53.021-53.023.
2. The commissioner has the authority to dispose of this case informally pursuant to the provisions of TEX. GOV'T CODE § 2001.056, 28 TEX. ADMIN. CODE § 1.47, and TEX. INS. CODE § 82.055.
3. Magdaleno committed an act for which a license may be denied, as contemplated by TEX. INS. CODE §§ 4001.105 and 4005.101.
4. Magdaleno intentionally made a material misstatement in his license application, in violation of TEX. INS. CODE § 4005.101(b)(2).
5. Magdaleno attempted to obtain a license by fraud or misrepresentation, in violation of TEX. INS. CODE § 4005.101(b)(3).

It is ordered that a life agent license is granted to Guillermo Magdaleno. It is further ordered that the life agent license is suspended for four years, probated.

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

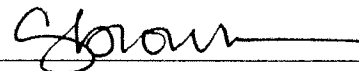
Beginning from the date of this order and continuing through the probation period, Magdaleno must file a written report, on or before the 15th day of the month on a quarterly basis for the months of March, June, September, and December, with the Texas Department of Insurance,

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. Magdaleno's current mailing address and telephone number;
- b. the name, mailing address, and telephone number of Magdaleno's employer, and if Magdaleno 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 which has appointed Magdaleno as a life agent;
- d. the name and address of any insurer which has canceled Magdaleno's appointment as a life agent; and
- e. a copy of any and all contracts Magdaleno has entered into with an insurer, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.

Magdaleno 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 Magdaleno concerning his performance as an insurance agent, as well as a written explanation detailing the steps taken to resolve it.



Cassie Brown
Deputy Commissioner
Regulatory Policy Division
Texas Department of Insurance
Delegation Order 4506

APPROVED AS TO FORM AND CONTENT:



LaKisha T. Seldon McKay
Staff Attorney
Enforcement Section
Texas Department of Insurance

2017- 5225

Affidavit

STATE OF TEXAS §

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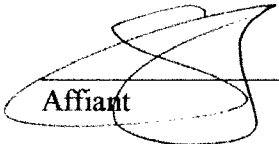
COUNTY OF Bexar §

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

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

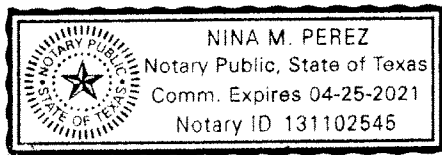
I waive rights provided by the Texas Insurance Code and other applicable law and acknowledge the jurisdiction of the commissioner.

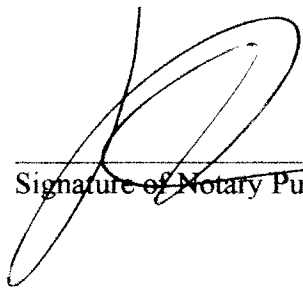
I have knowingly and voluntarily entered into this consent order and agree with and consent to the issuance and service of the same by the commissioner of insurance of the State of Texas.”


_____ **Affiant**

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

(NOTARY STAMP)




_____ **Signature of Notary Public**