

No. 2018-5471

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

Date: **APR 23 2018**

Subject Considered:

Texas Department of Insurance
v.
Robert Julian Franco
SOAH Docket No. 454-18-0615.C

General remarks and official action taken:

This order is in consideration of the county mutual agent license and the general lines agent license with a life, accident, and health qualification held by Robert Julian Franco.

Following a hearing before the State Office of Administrative Hearings (SOAH), the administrative law judge (ALJ) submitted a proposal for decision containing findings of fact and conclusions of law, recommending that the Texas Department of Insurance (department) revoke Mr. Franco's insurance agent licenses.

The proposed findings of fact, conclusions of law, and recommendation of the ALJ are adopted with nonsubstantive formatting and style changes. A copy of this order will be provided to law enforcement and other appropriate administrative agencies for further investigation as may be warranted.

FINDINGS OF FACT

1. On or about September 28, 2015, Robert Julian Franco began employment with Reliable Life Insurance Company (Reliable), and was appointed as an insurance agent on or about that same date.
2. On December 21, 2015, the department issued Mr. Franco a county mutual agent license.
3. On March 16, 2016, the department issued Mr. Franco a general lines agent license with a life, accident, and health qualification.
4. On or about July 31, 2016, deficiencies began to appear in Mr. Franco's premium collection records.

5. During the period from July 31, 2016, to September 6, 2016, Mr. Franco failed to forward to Reliable \$2,829.41 in premiums collected from Reliable's policyholders.
6. Reliable canceled Mr. Franco's appointment as an insurance agent on or about September 6, 2016. Mr. Franco was terminated on the same date.
7. Reliable applied Mr. Franco's insurance agent bond of \$738.25 to the \$2,829.41 deficiency in premiums Mr. Franco failed to forward, leaving a net deficiency of \$2,091.16.
8. On October 20, 2017, the department issued its Notice of Hearing informing Mr. Franco that the department was seeking to revoke his insurance agent licenses because he misappropriated or converted to his own use premiums paid by Reliable policyholders that should have been forwarded to Reliable for the benefit of the policyholders.
9. The Notice of Hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing would be held; a reference to the particular sections of the statutes and rules involved; and a short plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted.
10. The hearing was convened on January 10, 2018, at the hearing facility of SOAH before ALJ Fernando Rodriguez. Staff was represented by attorneys Stephanie Andrews and LaKisha Seldon McKay. Mr. Franco represented himself. The record closed at the conclusion of the hearing that day.

CONCLUSIONS OF LAW

1. The department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, 4001.105, 4005.101, 4005.102.
2. SOAH has authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Insurance Code § 4005.104.
3. Mr. Franco received timely and sufficient notice of the hearing. Tex. Gov't Code ch. 2001; Tex. Ins. Code § 4005.104(b).
4. Mr. Franco violated Insurance Code § 4005.101(b)(1) and (4) by collecting premiums from policyholders and not remitting those premiums to Reliable.

5. An insurance license may be revoked if a licensee misappropriates or converts to his own use money that belongs to an insurer, such as Reliable, or an insured, enrollee, or beneficiary. Tex. Ins. Code§ 4005.101(b)(1).
6. The department should revoke Mr. Franco's insurance agent licenses.

ORDER

It is ordered that the county mutual agent license and the general lines agent license with a life, accident, and health qualification held by Robert Julian Franco be revoked.

A handwritten signature in black ink, appearing to read 'Kent C. Sullivan', written over a horizontal line.

Kent C. Sullivan
Commissioner of Insurance