

No. 2021-6871

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

Date: 06/17/2021

Subject Considered:

Equis Financial LLC
83 South Tunnel Rd Ste A9
Asheville, North Carolina 28805

Consent Order
TDI Enforcement File No. 19779

General remarks and official action taken:

This is a consent order with Equis Financial LLC (Equis). Equis sent insurance advertisements to Texas residents that may have had the tendency and capacity to mislead and deceive the recipient. Also, Equis did not fully disclose its ownership to the Texas Department of Insurance (TDI) for more than four years, failing to file biographical information and update officer information following changes in ownership or control. Equis voluntarily revised the advertising mailers, timely notified TDI of its most recent ownership change, and has agreed to pay a \$34,000 administrative penalty.

Waiver

Equis acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Equis waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order. Pursuant to TEX. INS. CODE § 82.055(b), Equis agrees to this consent order with the express reservation that it does not admit to a violation of the Texas Insurance Code or of a rule and that the existence of a violation is in dispute.

Findings of Fact

Licensure

1. Equis has held a life agency license with TDI under firm identification number 113165 since October 14, 2015.
2. Equis was previously known as "Equis Financial Inc.," and notified TDI of its organizational and name change effective June 22, 2020.

Misleading and Deceptive Advertising and Solicitation

3. Equis is in the business of selling mortgage protection insurance.
4. In April 2019, TDI received a complaint from a reverse mortgage lender that Equis was mailing postcard advertisements to Texas residents containing words that had the tendency and capacity to mislead and deceive the recipient about the identity of the sender. The postcard included true data from public records, identifying the addressee's home mortgage lender, the loan amount, closing date of the loan, and the mortgage identification number.
5. The postcard stated that the "The Mortgage Service Center" was attempting to contact the borrower related to protecting their new mortgage and provided a toll-free number for the borrower to call.
6. The bottom of the postcard disclosed in smaller, legible print of the same font that the sender was not affiliated with a lending institution and stated the recipient could contact Equis for more information.
7. From at least January 1, 2018, through December 31, 2019, Equis mailed and distributed six versions of these advertisements or solicitations, including the postcard described above. The other five versions contained content similar to the postcard.
8. Approximately 1,600 Texas residents purchased a mortgage protection policy from Equis after responding to these advertisements and solicitations. Equis represents that it made approximately \$34,000 in revenue related to these sales.

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Mitigation Related to the Advertisements

9. On April 26, 2019, at the request of the complaining lender, Equis voluntarily agreed to stop using that lender's name in any and all advertising.
10. In February 2020, following TDI's request, Equis voluntarily revised all seven of the mailers, including the postcard, and ceased using the former templates for those mailers in Texas. The requested revisions included removal of a house symbol, removal of the salutation "To Borrower," and removal of the closing remark "The Mortgage Service Center."
11. In March 2020, TDI received a complaint from a Texas resident who had received a prior version of the mailer. Equis represents the complaint was factually inaccurate, and represents that no Texas residents experienced any consumer harm from the distribution of the prior versions of the mailers.
12. Equis has no disciplinary history in Texas.

Failure to Timely File Owner and Officer Information

13. When Equis' license was originally issued in 2015, Equis was owned and controlled by three individuals. Between 2015 and June 2020, new individuals acquired 10% or more of the ownership or control in Equis. Some of those ownership interests were subsequently resold and redistributed, and some of those sellers then disassociated themselves from Equis.
14. Equis failed to notify TDI of those acquisitions and redistributions by failing to provide TDI with biographical information for some of those owners and failing to update the status of some of its officers or directors.
15. On June 22, 2020, when Equis notified TDI of its organizational and name change from a corporation to a limited liability company, Equis also notified TDI of its most recent change of control and ownership of Equis.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021 – 84.044, 4001.002, 4005.101, 4005.102, and 4054.301.

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2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. Equis has knowingly and voluntarily waived all procedural rights to which it may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. Equis violated TEX. INS. CODE § 541.052(b)(2) and 28 TEX. ADMIN. CODE § 21.103 by making and circulating an insurance advertisement or solicitation before the public that had the capacity or tendency to mislead or deceive.
5. Equis violated TEX. INS. CODE § 4001.252(b)(1)-(2) by failing to timely file with TDI the biographical information for each of its officers and directors administering its operations in Texas, and for its controlling shareholders.
6. Equis violated TEX. INS. CODE § 4001.252(c)(3) by failing to timely notify TDI of the addition or removal of an officer, director, member, or manager.

Order

It is ordered that Equis Financial LLC must pay an administrative penalty of \$34,000 within 30 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" and transmitted to the Texas Department of Insurance, Attn: Enforcement, Division 60851, AO-9999, P.O. Box 12030, Austin, Texas 78711-2030.

Commissioner of Insurance

By: 
C77A87C8C21B435...
Doug Slape
Chief Deputy Commissioner
TEX. GOV'T CODE § 601.002
Commissioner's Order No. 2018-5528

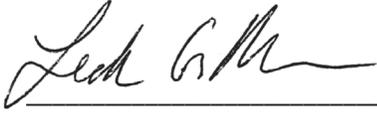
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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Rachel A. Cloyd, Director
Enforcement Division

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Affidavit

STATE OF Ohio §

COUNTY OF Montgomery §

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

"My name is Robert A. Jones. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I hold the office of Vice President and am the authorized representative of Equis Financial LLC. I am duly authorized by said organization to execute this statement.

Equis Financial LLC has knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas."



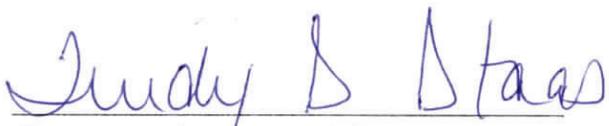
Affiant

SWORN TO AND SUBSCRIBED before me on 6-8, 2021.

(NOTARY SEAL)



TRUDY S STAAS
Notary Public
State of Ohio
My Comm. Expires
June 16, 2025



Signature of Notary Public

TRUDY S STAAS

Printed Name of Notary Public