

No. 2021-6661

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

Date: 01/21/2021

Subject Considered:

Matthew Martin Gandy

[REDACTED]
Longview, Texas 75601-3664

Default Order
SOAH Docket No. 454-21-0677
TDI Enforcement File No. 22341

General remarks and official action taken:

This is a default order taken against Matthew Martin Gandy (Respondent) because he misappropriated insurance premiums and engaged in fraudulent and dishonest acts. Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance. This order revokes Respondent's licenses.

The following findings of fact and conclusions of law are adopted:

Findings of Fact

Failure to Respond to Notice of Hearing

1. On November 23, 2020, the department filed a Notice of Hearing, attached as Exhibit A, and an Original Petition, attached as Exhibit B, with the State Office of Administrative Hearings.
2. The department's factual allegations set out in the attached Notice of Hearing and Original Petition are incorporated in this order as findings of fact.
3. The department sent the Notice of Hearing and Original Petition to Respondent's last known address provided in writing to the department, [REDACTED]

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Commissioner's Order

Matthew Martin Gandy

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█, Longview, Texas 75601-3664. The Notice of Hearing and Original Petition were sent to two additional addresses associated with Respondent: █, Longview, Texas 75605 and █, Kilgore, Texas 75662, as well as by electronic mail to an address associated with Respondent.

4. Respondent failed to file a written response to the Notice of Hearing within 20 days of the date the Notice of Hearing and Original Petition were mailed.

Conclusions of Law

1. The commissioner has jurisdiction pursuant to Texas law, including TEX. INS. CODE §§ 82.051-82.055, 84.021-84.044, 4001.002, 4005.101, 4005.102, 4051.051, and 4054.051, and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. The commissioner has authority to dispose of this case informally pursuant to TEX. GOV'T CODE § 2001.056; TEX. INS. CODE § 82.055; and 28 TEX. ADMIN. CODE §§ 1.47, 1.88, and 1.89.
3. The department provided proper notice of the hearing pursuant to TEX. GOV'T CODE §§ 2001.051, 2001.052, and 2001.054, and 28 TEX. ADMIN. CODE §§ 1.28, 1.88, 1.89, and 19.906.
4. Based on Respondent's failure to file a written response to the Notice of Hearing, the department is entitled to disposition by default pursuant to 28 TEX. ADMIN. CODE §§ 1.88 and 1.89.
5. The department's factual and legal allegations set out in the attached Notice of Hearing and Original Petition are incorporated in this order and deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.

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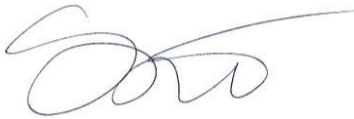
Order

It is ordered that any licenses held by Matthew Martin Gandy are revoked. A copy of this order will be provided to law enforcement and/or other appropriate administrative agencies for further investigation as may be warranted.

Commissioner of Insurance

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

Prepared and reviewed by:



Stephanie Daniels, Staff Attorney
Enforcement Division

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Affidavit

STATE OF TEXAS §

§

COUNTY OF TRAVIS §

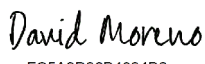
Before me, the undersigned authority, personally appeared David Moreno, who, being by me duly sworn, deposed as follows:

"My name is David Moreno and I am employed by the Texas Department of Insurance. I am of sound mind, capable of making this affidavit, and have personal knowledge of these facts which are true and correct.

I have reviewed TDI's records concerning Matthew Martin Gandy. I have confirmed that:

- a. The last mailing address provided to the department in writing by Matthew Martin Gandy is [REDACTED], Longview, Texas 75601-3664.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated November 23, 2020, which were filed with the State Office of Administrative Hearings.
- c. On November 23, 2020, the Notice of Hearing and Original Petition addressed to Matthew Martin Gandy were mailed certified, return receipt requested, to his last known address and two additional addresses: [REDACTED], Longview, Texas 75605 and [REDACTED], Kilgore, Texas 75662, as well as to an electronic address associated with Respondent.

A copy of the certified mail log maintained by the Enforcement Division is attached as Exhibit C."

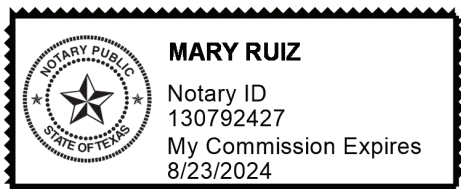
DocuSigned by:

FC5A3D36B4034B2... _____
Affiant

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 1/8/2021. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:
Mary Ruiz
795DC4D59167489...

Notary Public State of Texas

ACCEPTED
454-21-0677
11/23/2020 12:27 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

2021-6661

EXHIBIT

A

FILED
454-21-0677
11/23/2020 10:01 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

**SOAH DOCKET NO. 454-21-0677
TDI ENFORCEMENT FILE NO. 22341**

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

MATTHEW MARTIN GANDY,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

NOTICE OF HEARING

The Texas Department of Insurance seeks to take disciplinary action against you. This Notice of Hearing and the Original Petition, which is attached and incorporated for all purposes, states the allegations against you and the relief sought by the Department.

A public hearing will be held before an Administrative Law Judge on **Wednesday, March 24, 2021, at 9:00 a.m.** The hearing will take place via videoconference using a videoconference platform controlled by the State Office of Administrative Hearings, unless otherwise ordered to proceed in another manner by the Administrative Law Judge.

The hearing shall be conducted pursuant to TEX. GOV'T CODE, ch. 2001 and 1 TEX. ADMIN. CODE, ch. 155. Unless otherwise directed by the Administrative Law Judge, the hearing shall continue from day to day in the offices of the State Office of Administrative Hearings until concluded. You have the right to appear at this hearing and to be represented by an attorney.

Parties that are not represented by an attorney may obtain information regarding contested case hearings on the public website of the State Office of Administrative Hearings at www.soah.texas.gov, or in printed format upon request to SOAH.

YOU MUST FILE A WRITTEN RESPONSE TO THE NOTICE OF HEARING WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS WITHIN 20 DAYS OF THE DATE THE NOTICE OF HEARING WAS MAILED. FAILURE TO FILE A WRITTEN RESPONSE BY THIS DEADLINE SHALL ENTITLE TDI TO SEEK DISPOSITION BY DEFAULT PURSUANT TO 1 TEX. ADMIN. CODE § 155.501 AND 28 TEX. ADMIN. CODE §§ 1.88 AND 1.89.

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IF YOU FAIL TO FILE A WRITTEN RESPONSE, THE SCHEDULED HEARING CAN BE CANCELED AND WITHOUT FURTHER NOTICE TO YOU THE COMMISSIONER OF INSURANCE CAN ISSUE AN ORDER IN WHICH THE ALLEGATIONS IN THE NOTICE OF HEARING ARE DEEMED ADMITTED AS TRUE AND THE RELIEF SOUGHT IN THE NOTICE OF HEARING, INCLUDING REVOCATION OF YOUR LICENSE, ISSUANCE OF A CEASE AND DESIST ORDER, IMPOSITION OF ADMINISTRATIVE PENALTIES, AND/OR PAYMENT OF RESTITUTION, IS GRANTED BY DEFAULT.

IF YOU FILE A WRITTEN RESPONSE BUT THEN FAIL TO APPEAR ON THE DAY AND TIME SET FOR HEARING, WITHOUT FURTHER NOTICE TO YOU, THE COMMISSIONER OF INSURANCE CAN ISSUE AN ORDER IN WHICH THE ALLEGATIONS IN THE NOTICE OF HEARING ARE DEEMED ADMITTED AS TRUE AND THE RELIEF SOUGHT IN THE NOTICE OF HEARING, INCLUDING REVOCATION OF YOUR LICENSE, ISSUANCE OF A CEASE AND DESIST ORDER, IMPOSITION OF ADMINISTRATIVE PENALTIES, AND/OR PAYMENT OF RESTITUTION, IS GRANTED BY DEFAULT.

In accord with 28 TEX. ADMIN. CODE § 1.90(e) and 1 TEX. ADMIN. CODE §§ 155.101 and 155.103, you should send copies of your written response to:

- (1) Docketing Division
State Office of Administrative Hearings
300 West 15th Street, Room 504
P.O. Box 13025
Austin, Texas 78711-3025
(512) 322-2061 (Fax);
- (2) Chief Clerk
Texas Department of Insurance
P.O. Box 149104, MC112-2A
Austin, Texas 78714-9104
(512) 490-1064 (Fax)
chiefclerk@tdi.texas.gov; and
- (3) Stephanie Daniels, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104

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Matthew Martin Gandy

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(512) 490-1020 (Fax)

Stephanie.Daniels@tdi.texas.gov

Receiving Documents

The State Office of Administrative Hearings (SOAH) offers you the ability to receive service of orders and other documents issued by SOAH through email instead of by mail or fax. If you want to receive SOAH-issued documents by email, go to SOAH's website, www.soah.texas.gov, click on the "E-Services" tab, then click the hyperlink "Request Service by Email (only for use by self-represented litigants)," and follow the instructions.

NOTE: A request to receive SOAH-issued documents by email does not change the procedures you must follow to file documents with SOAH. The rules for filing documents and providing copies to all other parties in the case are described in SOAH's Procedural Rules, which are available on SOAH's website. Click the "Agency" tab, then click "Administrative Rules and Laws" to view SOAH's Procedural Rules.

Important Security Notice

ALL VISITORS TO THE WILLIAM P. CLEMENTS BUILDING WITHOUT AN AGENCY OR DPS ISSUED ID CARD MUST PROVIDE THE BUILDING SECURITY OFFICER WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS DOCKET NUMBER AND RECEIVE A VISITOR'S PASS IN ORDER TO BE ALLOWED ACCESS TO THE HEARING ROOM. INDIVIDUALS SHOULD ALLOW ADDITIONAL TIME TO GO THROUGH THE SECURITY PROCESS.

If you have any questions, please contact me at the address or telephone number shown below.

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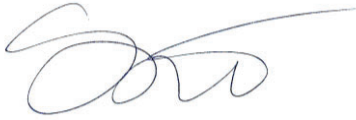
Notice of Hearing

Matthew Martin Gandy

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Respectfully Submitted,



Stephanie Daniels

State Bar No. 24107343

Texas Department of Insurance

Enforcement Division, MC110-1A

P.O. Box 149104

Austin, Texas 78714-9104

(512) 676-6334 (Direct)

(512) 490-1020 (Fax)

Stephanie.Daniels@tdi.texas.gov

ATTORNEY FOR THE PETITIONER

TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

cc: Leah Gillum, Deputy Commissioner, Enforcement Division, MC-110-1A
Ginger Loeffler, Litigation Director, Enforcement Division, MC-110-1A
Administrative Review, MC107-1A

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CERTIFICATE OF SERVICE

I, Stephanie Daniels, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by certified mail, return receipt requested, and by email on this 23rd day of November, 2020 to:

Matthew Martin Gandy
[REDACTED]
Longview, Texas 75601-3664

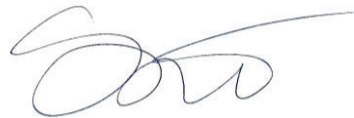
Via CM/RRR No.: 9214 8901 9403 8326 0497 54
Via Email: [REDACTED]

[REDACTED]
Longview, Texas 75605

Via CM/RRR No.: 9214 8901 9403 8326 0501 49

c/o Laird Insurance Agency
[REDACTED]
Kilgore, Texas 75662
Respondent Pro Se

Via CM/RRR No.: 9214 8901 9403 8326 1173 61



Stephanie Daniels



SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NO. 22341

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

MATTHEW MARTIN GANDY,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to take disciplinary action against Matthew Martin Gandy. In support of this petition, the department makes the following allegations upon information and belief:

Jurisdiction

The Commissioner of Insurance has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 84.021-84.044, 4001.002, 4005.101, 4005.102, 4051.051, and 4054.051, and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

Licensure and Background

1. Matthew Martin Gandy (Gandy), individual identification no. 339234, holds a general lines agent license with a property and casualty qualification issued by the department on February 27, 2006, and a life, accident, and health qualification, issued on March 3, 2006.
2. Gandy was appointed by State Farm in March 2006, until the company canceled his appointments in August 2019.

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Fraudulent and Dishonest Conduct

3. State Farm became aware of discrepancies in Gandy's Premium Fund Account (PFA) after attempting multiple unsuccessful withdrawals, in 2018 and 2019, via Electronic Funds Transfer (EFT).
4. State Farm conducted a reconciliation and detailed audit of Gandy's PFA in 2019, reviewing the period of July 1, 2018, through February 28, 2019, which revealed extensive misappropriation of agency funds by Gandy. When questioned by State Farm investigators on May 8, 2019, Gandy admitted to the misappropriation.
5. When a State Farm Agency collects a customer's payment, it applies the payment to the customer's policy and records it on the Final Deposit Listing (FDL). Then, the payment is deposited in the PFA, enabling State Farm to withdraw the funds. The FDL and PFA must match in both amount and detail.
6. Gandy deposited six personal checks into the PFA during the reviewed period, totaling \$3,245.47, in an attempt to cover missing funds.
7. During the investigation, State Farm found 29 checks deposited into the PFA before they were applied to customer policies. This is typically seen when an agent uses customer payments to cover past payments which were misappropriated. A practice commonly known as a "lapping scheme."
8. State Farm's investigation revealed 44 checks, totaling \$21,836.68, listed on the FDLs, but which were not found on the PFA bank deposit detail. This includes one of Gandy's personal checks written for his personal insurance policy.
9. Gandy wrote a check for \$741.92 from his personal checking account for his personal insurance policy. These funds were applied to his policy and recorded on the FDL. Then Gandy deposited the check into his personal business account instead of his PFA. Gandy's personal business account was located at the same bank as the PFA, but State Farm had no access to that account. Gandy repaid himself by depositing the funds from his personal checking account into his personal business account and then allowed State Farm to withdraw funds already in the PFA to cover the amount he owed for his personal policy. Gandy admitted this during the interview with the investigators. When asked if he thought these

actions constituted “stealing” from State Farm, Gandy admitted that his actions did constitute stealing.

10. During this same conversation with investigators, Gandy was shown a list of all customer checks unaccounted for during State Farm’s audit. He admitted to depositing all 43 customer checks, totaling \$21,094.76, in his personal business account rather than into the PFA. The investigator stressed it would “be very alarming if any of these customer checks were floating around somewhere,” and Gandy, “assured her all were deposited into his business account.”
11. During the interview with State Farm’s internal audit investigators, Gandy admitted misappropriating funds from the PFA in excess of \$45,000 for his personal use, and creating a “lapping scheme” by using customer payments to cover past payments which were deposited into his personal business account for personal use.
12. Initially in the interview, Gandy claimed he borrowed \$45,000 from a friend to pay State Farm back and that the money was then stolen out of his truck. When pressed on the story, Gandy “raised his hands up high and said, nope, admitting he made the entire story up to cover his theft of State Farm funds.”
13. In direct communication with the department in October 2019, Gandy stated that he “paid the money back in 2 1/2 months” and “It was not even communicated that I paid it back.” These statements directly contradict the fact that as of August 6, 2019,—three months after he admitted to misappropriation of funds—he still owed State Farm \$16,078.42.
14. As of February 28, 2019, Gandy owed State Farm \$52,536.39. State Farm has a first lien on Gandy’s compensation and exercised its right to withhold earnings. As of August 31, 2020, Gandy still owed State Farm \$9,084.73.

Legal Allegations

1. Gandy committed acts for which a license holder may be disciplined under TEX. INS. CODE § 4005.101, as contemplated in TEX. INS. CODE § 4005.102.
2. Gandy willfully violated an insurance law of this state, pursuant to TEX. INS. CODE § 4005.101(b)(1).

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3. Gandy misappropriated, converted to his own use, or illegally withheld money belonging to an insurer or an insured, pursuant to TEX. INS. CODE § 4005.101(b)(4).
4. Gandy engaged in fraudulent or dishonest acts or practices, pursuant to TEX. INS. CODE § 4005.101(b)(5).

Relief Sought

If one or more of the above allegations is found to be true, the department asks the Administrative Law Judge to enter a Proposal for Decision recommending that the Commissioner of Insurance issue an order:

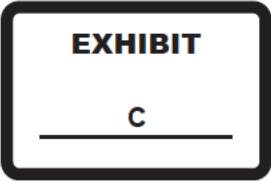
1. revoking Matthew Martin Gandy's license;
2. directing Matthew Martin Gandy to pay an administrative penalty under TEX. INS. CODE §§ 84.021 - 84.022;
3. directing Matthew Martin Gandy to make restitution to the victim under TEX. INS. CODE § 82.053; and
4. imposing any other just and appropriate relief to which the department may be entitled to by law, including any combination of the above actions.

Respectfully Submitted,



Stephanie Daniels
State Bar No. 24107343
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6334 (Direct)
(512) 490-1020 (Fax)
Stephanie.Daniels@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE



Shipment Confirmation Acceptance Notice

A. Mailer Action

Note to Mailer: The labels and volume associated to this form online, must match the labeled packages being presented to the USPS® employee with this form.

Shipment Date: 11/23/2020
Shipped From:
Name: MC 110-1A M RUIZ
Address: 333 GUADALUPE ST
City: AUSTIN
State: TX ZIP+4® 78701

Table with 2 columns: Type of Mail, Volume. Rows include Priority Mail Express®, Priority Mail®, First-Class Package Service®, Returns, International*, Other, and Total.

*Start time for products with service guarantees will begin when mail arrives at the local Post Office™ and items receive individual processing and acceptance scans.

B. USPS Action

- Note to RSS Clerk:
1. Home screen > Mailing/Shipping > More
2. Select Shipment Confirm
3. Scan or enter the barcode/label number from PS Form 5630
4. Confirm the volume count message by selecting Yes or No
5. Select Pay and End Visit to complete transaction

USPS EMPLOYEE: Please scan upon pickup or receipt of mail. Leave form with customer or in customer's mail receptacle.

USPS SCAN AT ACCEPTANCE
[Barcode]
9275 0901 1935 6200 0025 4574 20



S.DANIELS/22341

