

No. 2020-6421

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

Date: 08/06/2020

Subject Considered:

Tiffany Michelle Simon
[REDACTED]
Fort Worth, Texas 76124-1505

Default Order
SOAH Docket No. 454-20-2574.C
TDI Enforcement File No. 17171

General remarks and official action taken:

The subject of this default order is whether an adjuster all lines license should be issued to Tiffany Michelle Simon (Respondent). Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance or appear at the hearing on the merits. This order denies Respondent's license application.

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

Findings of Fact

Failure to Respond to Notice of Hearing

1. On February 11, 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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██████████ Texas 76124-1505. The Notice of Hearing and Original Petition were also included in the exhibits which were sent by electronic mail to Respondent's email ██████████.

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.

Failure to Appear at Hearing on the Merits

5. After receiving proper notice of the date, time, and location of the hearing on the merits, Respondent failed to appear for the hearing on June 16, 2020, as shown in the record in SOAH Docket No. 454-20-2574.C.

Conclusions of Law

1. The commissioner has jurisdiction pursuant to Texas law, including TEX. INS. CODE §§ 82.051-82.055, 84.021-82.044, 4001.002, 4005.101, 4005.102, and 4101.051; 28 TEX. ADMIN. CODE § 1.502; TEX. OCC. CODE §§ 53.021 – 53.023; 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.

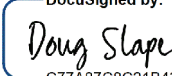
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Order

It is ordered that Tiffany Michelle Simon's application for an adjuster all lines license is denied.

Kent C. Sullivan
Commissioner of Insurance

DocuSigned by:

By: C77A87C8C21B435...
Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

Prepared and reviewed by:

/s/Patrick Quigley
Patrick Quigley, Staff Attorney
Enforcement Division

Affidavit

STATE OF TEXAS §
§
COUNTY OF TRAVIS §

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

"My name is Mary Ruiz 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 Tiffany Michelle Simon. I have confirmed that:

- a. The last mailing address provided to the department in writing by Tiffany Michelle [REDACTED], Texas 76124-1505.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated February 11, 2020, which were filed with the State Office of Administrative Hearings.
- c. On February 11, 2020, the Notice of Hearing and Original Petition addressed to Tiffany Michelle Simon were mailed first-class and certified, return receipt requested, to her last known address.

Copies of the first-class mail log and certified mail log maintained by the Enforcement Division are attached as Exhibit C and Exhibit D, respectively."

DocuSigned by:

Mary Ruiz

46290511F9F346A...

Affiant

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 7/27/2020, 2020. This notarial act was an online notarization.

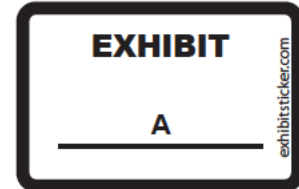
Notary Seal



Digital Certificate

DocuSigned by:
Franchetta Alexander
ED54610E15BF40C...
Notary Public State of Texas

SOAH DOCKET NO. 454-20-2574.C
TDI ENFORCEMENT FILE NO. 17171



TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

TIFFANY MICHELLE SIMON,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

NOTICE OF HEARING

The Texas Department of Insurance seeks to deny your license application. 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 **Tuesday, March 17, 2020, at 9:00 a.m.** The hearing will take place at the State Office of Administrative Hearings, located in the William P. Clements Building, 300 W. 15th Street, 4th Floor, Austin, Texas, 78701.

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 DENIAL OF YOUR LICENSE APPLICATION, 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 DENIAL OF YOUR LICENSE APPLICATION, 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) Patrick Quigley, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 490-1020 (Fax)
Patrick.quigley@tdi.texas.gov

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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 "Email Service" hyperlink, 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.

Respectfully Submitted,

/s/ Patrick Quigley

Patrick Quigley
State Bar No. 16430320
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6335 (Direct)
Patrick.quigley@tdi.texas.gov

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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

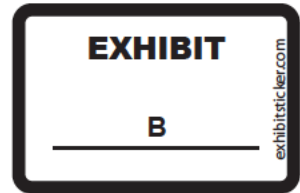
CERTIFICATE OF SERVICE

I, Patrick Quigley, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by regular, first-class mail and by certified mail, return receipt requested, on February 11, 2020, to:

Tiffany Michelle Simon

Fort Worth, Texas 76124

Via CM/RRR No.:
9214 8901 9403 8306 1275 40

/s/ Patrick Quigley
Patrick Quigley



TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

TIFFANY MICHELLE SIMON,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to deny Tiffany Michelle Simon’s (Simon) license application. 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, 84.021-82.044, 4001.002, 4005.101, 4005.102, and 4101.051; 28 TEX. ADMIN. CODE § 1.502; TEX. OCC. CODE §§ 53.021 – 53.023; and TEX. GOV’T CODE §§ 2001.051-2001.178.

Factual Allegations

License Application

1. On November 20, 2017, Simon applied for an adjuster all lines license to the department.
2. In the license application to the department, Simon denied that she was convicted of any misdemeanor or felony offense in Texas, which was false.
3. The department proposed to deny Simon’s application on August 17, 2018, based on her criminal history. Simon appealed that decision and made a timely written request for a hearing.

Criminal History

4. On March 20, 2015, Simon pled guilty to robbery, a second-degree felony, in the 199th District Court of Collin County, Texas in cause number 199-82123-2014. Simon was fined \$1,000, ordered to pay \$309 for court costs, the adjudication of guilt was deferred, and she was placed on community supervision for five years. On March 2, 2018, Simon's community supervision was amended to a period of eight years. Simon's community supervision will continue until March 19, 2023.
5. On March 28, 2018, Simon pled guilty to resisting arrest, a class A misdemeanor, in the County Criminal Court No. Three of Tarrant County, Texas in cause number 1495977. Simon was sentenced to 12 days in jail and ordered to pay \$217 for court costs.
6. On March 28, 2018, Simon pled guilty to failure to identify - fugitive from justice – false information, a class A misdemeanor, in the County Criminal Court No. Three of Tarrant County, Texas in cause number 1494514. Simon was sentenced to 12 days in jail and ordered to pay \$217 for court costs.

Legal Allegations

1. Pursuant to TEX. OCC. CODE §§ 53.021(c)-(d), the commissioner may deny Simon's application and consider her to have been convicted of an offense for which she received deferred adjudication, if after consideration of the factors in TEX. OCC. CODE §§ 53.022 and 53.023(a), the commissioner determines that:
 - a. Simon has not completed her period of supervision or;
 - b. Simon has not completed her period of supervision less than five years before the date she applied for the license; and
 - c. Simon may pose a continued threat to public safety; or
 - d. Simon's employment in the business of insurance would give her the opportunity to repeat the prohibited conduct.
2. Simon committed acts for which a license may be denied because:

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- a. Based on her prior criminal history, she engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5).
 - b. Simon has been convicted of a felony, as contemplated by TEX. INS. CODE § 4005.101(b)(8).
3. In accordance with the requirements of Texas Occupations Code § 53.025, the department has developed guidelines relating to the matters which the department will consider in determining whether to grant, deny, suspend, or revoke any license or authorization under its jurisdiction. Those crimes which the department considers to be of such serious nature that they are of prime importance in determining fitness for licensure or authorization include robbery, 28 TEX. ADMIN. CODE § 1.502(e)(4)(D) and (F).
4. Simon committed an offense for which fraud, dishonesty, or deceit is an essential element, as contemplated in 28 TEX. ADMIN. CODE § 1.502(e)(4)(D) and (F) and TEX. OCC. CODE §§ 53.021-53.023.
5. Simon committed an offense with the essential elements of robbery, as contemplated in 28 TEX. ADMIN. CODE § 1.502(e)(4)(D) and (F) and TEX. OCC. CODE §§ 53.021-53.023.
6. Department guidelines, 28 TEX. ADMIN. CODE § 1.502(c)-(e), emphasize that TDI:
 - a. Considers it very important that applicants be honest, trustworthy, and reliable;
 - b. May refuse to issue an original license if the department determines that the applicant has committed an offense that directly relates to the duties and responsibilities of the licensed occupation; and
 - c. Considers any offense for which fraud, dishonesty or deceit is an essential element to be of prime importance when determining fitness for licensure.

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. Denying respondent's license application; and

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2. 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,

/s/ Patrick Quigley

Patrick Quigley
State Bar No. 16430320
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6335 (Direct)
(512) 490-1020 (Fax)
Patrick.quigley@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE



Firm Mailing Book For Accounts

Name and Address of Sender
MC 110-1A M RUIZ
Texas Department of Insurance
333 Guadalupe St
Austin Tx 78701

Check type of mail or service

- Adult Signature Required
- Adult Signature Restricted Delivery
- Certified Mail
- Certified Mail Restricted Delivery
- Collect on Delivery (COD)
- Insured Mail
- Priority Mail
- Priority Mail Express
- Registered Mail
- Return Receipt for Merchandise
- Signature Confirmation
- Signature Confirmation Restricted Delivery

USPS Tracking/Article Number

1. 9214 8901 9403 8306 1275 40

quigley/17171

Addressee (Name, Street, City, State, & ZIP Code™)

TIFFANY MICHELLE SIMON [REDACTED] X 76124

Affix Stamp Here
(if issued as an international certificate of mailing or for additional copies of this receipt).
Postmark with Date of Receipt.

Postage	(Extra Service) Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender if COD	ASR Fee	ASRD Fee	RD Fee	RR Fee	SC Fee	SCRD Fee	SH Fee
1.40	3.55	Handling Charge - if Registered and over \$50,000 in value				Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling



Total Number of Pieces Listed by Sender: 1

Total Number of Pieces Received at Post Office

Postmaster, Per (Name of receiving employee)

EXHIBIT

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exhibitstickr.com

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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: 02/11/2020

Shipped From:

Name: MC 110-1A M RUIZ

Address: 333 GUADALUPE ST

City: AUSTIN

State: TX ZIP+4® 78701

Type of Mail	Volume
Priority Mail Express®	
Priority Mail®	0
First-Class Package Service®	
Returns	
International*	
Other	1
Total	1

*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:

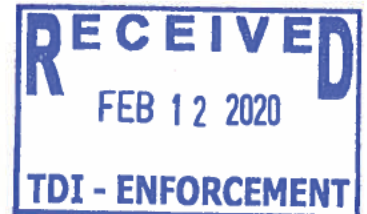
1. Home screen > Mailing/Shipping > More
2. Select Shipment Confirm
3. Scan or enter the barcode/label number from PS Form 5630
4. Confirm the volume count message by selecting Yes or No
5. Select Pay and End Visit to complete transaction

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

USPS SCAN AT ACCEPTANCE



9275 0901 1935 6200 0020 1910 08



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