

No. 2020-6555

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

Date: 11/12/2020

Subject Considered:

Aaron Starks

[REDACTED]
Fresno, Texas 77545-7178

Default Order
SOAH Docket No. 454-21-0254
TDI Enforcement File No. 20138

General remarks and official action taken:

The subject of this default order is whether a limited lines agent license should be issued to Aaron Starks (Respondent). Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance. 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 September 30, 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], Fresno, Texas 77545. The Notice of Hearing and Original Petition were also sent by

electronic mail and to an additional address associated with Respondent, [REDACTED], Fresno, Texas 77545.

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, 4001.002, 4005.101, 4005.102, 4051.101, TEX. GOV'T CODE §§ 2001.051-2001.178, 28 TEX. ADMIN. CODE § 1.502, and TEX. OCC. CODE §§ 53.021-53.023.¹
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.

¹ All citation to the Texas Occupations Code refers to the law in effect prior to H.B. 1342 (86th R.S.), effective September 1, 2019. Section 14 of H.B. 1342 states: "The changes in law made by this Act apply only to an application for a license submitted on or after the effective date of this Act. An application for a license submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose."

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 Aaron Starks. I have confirmed that:

- a. The last mailing address provided to the department in writing by Aaron Starks is [REDACTED], Fresno, Texas 77545.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated September 30, 2020, which were filed with the State Office of Administrative Hearings.
- c. On September 30, 2020, the Notice of Hearing and Original Petition addressed to Aaron Starks were sent by electronic mail and mailed first-class and certified, return receipt requested, to his last known address and an additional address, [REDACTED] [REDACTED] Fresno, Texas 77545.

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

DocuSigned by:

 2ACD5229C9E344E...
 Affiant

2020-6555

Commissioner's Order

Aaron Starks

SOAH Docket No. 454-21-0254

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 10/26/2020. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:
Mary Ruiz
795DC4D59167489...
Notary Public State of Texas

2020-6555

ACCEPTED
454-21-0254
9/30/2020 9:26 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

FILED
454-21-0254
9/30/2020 9:11 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

**SOAH DOCKET NO. 454-21-0254
TDI ENFORCEMENT FILE NO. 20138**

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

AARON STARKS,

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, January 12, 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.

**Exhibit
A**

2020-6555

Notice of Hearing

Aaron Starks

SOAH Docket No. 454-21-0254

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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

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Notice of Hearing

Aaron Starks

SOAH Docket No. 454-21-0254

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- (3) Anna Kalapach, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 490-1020 (Fax)
anna.kalapach@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 "eFiling" 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.

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Notice of Hearing

Aaron Starks

SOAH Docket No. 454-21-0254

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

Respectfully Submitted,



Anna Kalapach
State Bar No. 24083290
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6326 (Direct)
(512) 490-1020 (Fax)
anna.kalapach@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

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

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Notice of Hearing

Aaron Starks

SOAH Docket No. 454-21-0254

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CERTIFICATE OF SERVICE

I, Anna Kalapach, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by the following methods, on this 30th day of September, 2020 to:

Aaron Starks

[Redacted]

Fresno, TX 77545

Respondent Pro Se

CM/RRR: 9214 8901 9403 8322 0839 98

Via Email to:

[Redacted] and

[Redacted]

Aaron Starks

[Redacted]

Fresno, TX 77545

CM/RRR: 9214 8901 9403 8322 0848 03



Anna Kalapach

2020-6555

FILED
454-21-0254
9/29/2020 12:57 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

454-21-0254

FILED
454-21-0254
9/29/2020 9:40 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NO. 20138

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

AARON STARKS,

ADMINISTRATIVE HEARINGS

Respondent

ORIGINAL PETITION

The Texas Department of Insurance seeks to deny Aaron Starks’s 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, 4001.002, 4005.101, 4005.102, 4051.101, TEX. GOV’T CODE §§ 2001.051-2001.178, 28 TEX. ADMIN. CODE § 1.502, and TEX. OCC. CODE §§ 53.021-53.023.¹

Factual Allegations

License Application

1. On March 15, 2019, Aaron Starks (“Starks”) submitted an application to the department for a limited lines agent license.

¹ All citation to the Texas Occupations Code in this Original Petition refers to the law in effect prior to H.B. 1342 (86th R.S.), effective September 1, 2019. Section 14 of H.B. 1342 states: “The changes in law made by this Act apply only to an application for a license submitted on or after the effective date of this Act. An application for a license submitted before the effective date of this Act is governed by the law in effect on the date the application was submitted, and the former law is continued in effect for that purpose.”

**Exhibit
B**

2. The department proposed to deny Starks's application on April 22, 2019, based on his criminal history. Starks appealed that decision and made a written request for a hearing.

Criminal History

3. On October 25, 1999, Starks pled guilty to Burglary of a Vehicle, a Class A misdemeanor, in case number 9932041, in the Criminal Court at Law No. 13, of Harris County, Texas. His adjudication of guilt was deferred and he was placed on one year community supervision, which was completed.
4. On January 31, 2003, Starks pled guilty to Possession of Marijuana, a Class B misdemeanor, in case number 1156318, in the County Criminal Court at Law No. 1, of Harris County, Texas. Starks received five days confinement in the Harris County Jail.
5. Starks pled guilty to Burglary of a Vehicle, a Class A misdemeanor, on June 17, 2003, in case number 1160903, in the County Criminal Court at Law No. 1, of Harris County, Texas. He received 180 days confinement and a \$200 fine, probated to one year community supervision. On October 30, 2003, Starks's probation was revoked due to his failure to pay the crime stoppers fee and submit to alcohol and drug evaluation, as ordered. Starks received 20 days in the Harris County Jail and a fine of \$200.
6. On October 16, 2003, Starks was charged with knowingly possessing a controlled substance, namely cocaine, weighing less than one gram, a State Jail Felony, in case number 965084, in the 228th District Court of Harris County, Texas. Starks pled guilty and was sentenced to two years probation on October 29, 2003.
7. Starks's probation in case number 965084 was revoked on February 10, 2004. He received nine months in State Jail and a \$500 fine.
8. On July 31, 2008, a grand jury indicted Starks with knowingly possessing a controlled substance, namely cocaine, weighing less than one gram, a State Jail Felony, in case number 1168996, in the 184th District Court of Harris County, Texas. Starks pled guilty and was sentenced to six months confinement in state jail on January 7, 2009.

9. Also on July 31, 2008, a grand jury indicted Starks, as a felon, with unlawfully, intentionally, and knowingly possessing a firearm at a location other than the premises at which he lived, a third degree felony, in case number 1168997, in the 184th District Court of Harris County, Texas. Starks pled guilty to "Felon in Possession of a Weapon," and was sentenced to three years confinement on January 7, 2009.
10. On July 1, 2013, Starks was charged with Burglary of a Vehicle, a Class A misdemeanor, in case number 202264, in County Court at Law No. 3 of Brazoria County, Texas. Starks pled guilty and received twelve months community supervision on October 30, 2013.
11. On March 4, 2016, Starks was charged with Driving While Intoxicated, a Class A misdemeanor, in case number 207806301010, in the County Criminal Court at Law No. 2 in Harris County, Texas. Starks pled guilty and he received 30 days confinement in the county jail on May 19, 2016.
12. On March 4, 2016, Starks was charged with Failure to Stop and Give Information, a misdemeanor, in case number 2078064, in the County Criminal Court at Law No. 2 in Harris County, Texas.
13. The State of Texas filed a Motion to Dismiss in case number 2078064 because Starks was convicted in another case, the aforementioned case number 207806301010. On May 19, 2016, the complaint in case number 2078064 was dismissed.

Legal Allegations

1. Starks has engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5).
2. Starks has committed misdemeanor and felony offenses and has engaged in fraudulent or dishonest activity that directly relates to the duties and responsibilities of the licensed occupation, as contemplated in 28 TEX. ADMIN. CODE § 1.502(d) and (f).
3. Starks committed offenses that the department considers to be of such a serious nature that it is of prime importance in determining fitness for licensure, as

contemplated by 28 TEX ADMIN. CODE § 1.502(e)(1), (e)(3), and (e)(4)(E), and TEX. OCC. CODE §§ 53.021 – 53.023.

4. Department guidelines, 28 TEX ADMIN. CODE § 1.502(c)-(e), emphasize that the department:
 - 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 a felony or misdemeanor that directly relates to the duties and responsibilities of the licensed occupation;
 - c. considers the offense of Felon in Possession of a Weapon to be a crime of moral turpitude, and of such a serious nature that it is of prime importance when determining fitness for licensure. 28 TEX ADMIN. CODE § 1.502(e)(3); and
 - d. considers the offense of Burglary of a Vehicle to be of such a serious nature that it is of prime importance when determining fitness for licensure. 28 TEX ADMIN. CODE § 1.502(e)(4)(E).

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 Aaron Starks's license application; and
2. imposing any other just and appropriate relief to which the department may be entitled to by law.

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Original Petition

Aaron Starks

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Respectfully Submitted,

A handwritten signature in black ink that reads "A Kalapach" with a long horizontal flourish extending to the right.

Anna Kalapach
State Bar No. 24083290
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6326 (Direct)
(512) 490-1020 (Fax)
anna.kalapach@tdi.texas.gov
ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE



Firm Mailing Book For Accountable Mail

Name and Address of Sender MC 110-1A D Moreno Texas Department of Insurance 333 Guadalupe St Austin TX 78701		Check type of mail or service <input type="checkbox"/> Adult Signature Required <input type="checkbox"/> Priority Mail Express <input type="checkbox"/> Adult Signature Restricted Delivery <input type="checkbox"/> Registered Mail <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Certified Mail Restricted Delivery <input type="checkbox"/> Signature Confirmation <input type="checkbox"/> Collect on Delivery (COD) <input type="checkbox"/> Signature Confirmation Restricted Delivery <input type="checkbox"/> Insured Mail <input type="checkbox"/> Priority Mail		Affix Stamp Here (for additional copies of this receipt). Postmark with Date of Receipt.											
USPS Tracking/Article Number	Addressee (Name, Street, City, State, & ZIP Code™)	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. 9214 8901 9403 8322 0839 98	AARON STARIS [REDACTED] FRESNO TX 77548	1.40	3.55									1.70			
2. 9214 8901 9403 8322 0848 03	AARON STARIS [REDACTED] FRESNO TX 77545	1.40	3.55									1.70			
kalapach/20138				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 2	Total Number of Pieces Received at Post Office	Postmaster, Per (Name of receiving employee)													

PS Form 3877, January 2017 (Page 1 of 1) PSN 7530-02-000-9098 JobId: 2293334
 Complete in ink Privacy Notice: For more information on USPS privacy policies, visit usps.com/privacypolicy

RECEIVED
 OCT 05 2020
 TDI - ENFORCEMENT

AUSTIN TX
 SEP 30 2020
 GMP WINDOW

Exhibit C



**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: 09/30/2020

Shipped From:

Name: MC 110-1A D MORENO

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	2
Total	2

*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 0024 4287 59



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