

No. 2020-6297

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

Date: MAR 25 2020

Subject Considered:

Michael Duane Smith

[REDACTED]
Dallas, Texas 75204

Default Order
SOAH Docket No. 454-20-2382.C
TDI Enforcement File No. 17155

General remarks and official action taken:

This is a default order taken against Michael Duane Smith (Respondent) because he misappropriated premium payments, engaged in fraudulent or dishonest acts or practices, and failed to complete the required continuing education hours. Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance. This order revokes Respondent's license.

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

Findings of Fact

Failure to Respond to Notice of Hearing

1. On January 31, 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] Dallas, Texas 75204.
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 of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4004.051, 4004.053, 4004.054, 4005.101, 4005.102, 4051.051, 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.

2020- 6297

Commissioner's Order
Michael Duane Smith
SOAH Docket No. 454-20-2382.C
Page 3 of 4

Order

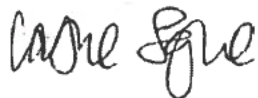
It is ordered that Michael Duane Smith's general lines agent license with a life, accident, and health, and property and casualty qualification is revoked. A copy of this order will be provided to law enforcement and/or other appropriate administrative agencies for further investigation as may be warranted.

Kent C. Sullivan
Commissioner of Insurance

By: 

Doug Slope
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

Prepared and reviewed by:



Cassie Tigue, Staff Attorney
Enforcement Division

Affidavit

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

"My name is Sonia Beck 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.

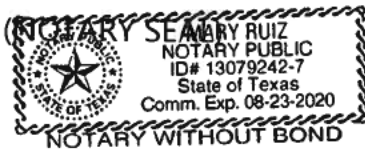
I have reviewed TDI's records concerning Michael Duane Smith. I have confirmed that:

- a. The last mailing address provided to the department in writing by Michael Duane Smith is [REDACTED] Dallas, Texas 75204.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated January 31, 2020, which were filed with the State Office of Administrative Hearings.
- c. On January 31, 2020, the Notice of Hearing and Original Petition addressed to Michael Duane Smith were mailed certified, return receipt requested, to his last known address.

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

Affiant

SWORN TO AND SUBSCRIBED before me on February 26, 2020.



[Signature]

Signature of Notary Public

Mary Ruiz

Printed Name of Notary Public

2020- 6297

SOAH DOCKET NO. 454-20-2382.C
TDI ENFORCEMENT FILE NO. 17155

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

MICHAEL DUANE SMITH,

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, April 8, 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.



2020- 6297

Notice of Hearing
Michael Duane Smith
SOAH Docket No. 454-20-2382.C
Page 2 of 5

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) Cassie Tigue, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104

2020- 6297

Notice of Hearing
Michael Duane Smith
SOAH Docket No. 454-20-2382.C
Page 3 of 5

(512) 490-1020 (Fax)
Cassie.Tigue@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 "Email Service" hyperlink, and follow the instructions.

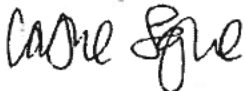
NOTE: A request to receive SOAH-issued documents by email does not change the procedures you must follow to file documents with SOAH. The rules for filing documents and providing copies to all other parties in the case are described in SOAH's Procedural Rules, which are available on SOAH's website. Click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



Cassie Tigue
State Bar No. 24099994
Texas Department of Insurance

2020- 6297

Notice of Hearing
Michael Duane Smith
SOAH Docket No. 454-20-2382.C
Page 4 of 5

Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6356 (Direct)
(512) 490-1020 (Fax)
Cassie.Tigue@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

2020- 6297

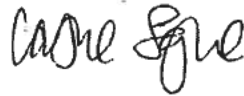
Notice of Hearing
Michael Duane Smith
SOAH Docket No. 454-20-2382.C
Page 5 of 5

CERTIFICATE OF SERVICE

I, Cassie Tigue, 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 this 31st day of January, 2020 to:

Michael Duane Smith
[REDACTED]
Dallas, Texas 75204
Respondent Pro Se

Via CM/RRR No.: 9214 8901 9403 8305 3344 99



Cassie Tigue

2020- 6297

SOAH DOCKET NO. 454-20-2382.C
TDI ENFORCEMENT FILE NO. 17155

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

MICHAEL DUANE SMITH,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to take disciplinary action against Michael Duane Smith. 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, 4004.051, 4004.053, 4004.054, 4005.101, 4005.102, 4051.051, 4054.051, and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

Licensure and Background

1. Michael Duane Smith (Smith), individual identification no. 868808, holds a general lines agent license with a life, accident, and health qualification, and a property and casualty qualification, originally issued by the Texas Department of Insurance on November 6, 2009.
2. Michael Duane Smith Agency, Inc., firm identification no. 102175, held a general lines agency license with a life, accident, and health qualification, and a property and casualty qualification, originally issued by the department on November 17, 2014. On November 17, 2018, the agency's license expired.



3. Smith was appointed as an agent by Farmers Insurance Companies (Farmers) from November 2009, through September 2018.

Premium Conversion

4. Smith collected approximately \$1,496 in premium payments from policyholders and failed to remit those payments to Farmers.
5. On September 6, 2018, Farmers cancelled Smith's appointments.

Failure to Complete Continuing Education

6. Smith failed to complete 24 hours of continuing education required for the 2015 – 2018 reporting period.

Legal Allegations

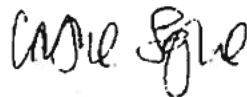
1. Smith has committed acts for which a license holder may be disciplined under TEX. INS. CODE § 4005.101, as contemplated in TEX. INS. CODE § 4005.102 and TEX. INS. CODE § 4101.201.
2. Smith has willfully violated an insurance law of this state, pursuant to TEX. INS. CODE § 4005.101(b)(1).
3. Smith has misappropriated, converted to his own use, or illegally withheld money belonging to an insured, insurer, or beneficiary, in violation of TEX. INS. CODE § 4005.101(b)(4).
4. Smith engaged in fraudulent or dishonest acts or practices, in violation of TEX. INS. CODE § 4005.101(b)(5).
5. Smith failed to complete all required continuing education hours for the relevant renewal periods, in violation of TEX. INS. CODE §§ 4004.051, 4004.053, and 4004.054.

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 Smith's license;
2. assessing an administrative penalty;
3. ordering restitution paid; and
4. 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,



Cassie Tigue
State Bar No. 24099994
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6356 (Direct)
(512) 490-1020 (Fax)
Cassie.Tigue@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

2020 - 6297



Firm Mailing Book For Accountable Mail

Name and Address of Sender

S. Beck
Texas Department of Insurance
333 Guadalupe St
Austin TX 78701

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

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

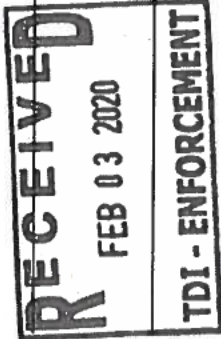
1. 9214 8901 8403 8305 3344 99

C.TIGUE 17155

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

MICHAEL DUANE SMITH, [REDACTED] DALLAS TX 75204

Postage	(Extra Service) Fee	Handling Charge	Actual Value if Registered	Insured Value	Due Sender # COD	ASR Fee	ASRD Fee	RD Fee	RR Fee	SC Fee	SCRD Fee	SH Fee
1.60	3.55	Handling Charge - if Registered and over \$50,000 in value							1.70			
						Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling



Postmaster Per (Name of receiving employee)

[Signature]

Total Number of Pieces Listed by Sender: 1

Total Number of Pieces Received at Post Office: 1

Complete in Ink

Privacy Notice: For more information on USPS privacy policies, visit usps.com/privacypolicy.

2020-6297



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: 01/31/2020

Shipped From:

Name: S BECK

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.

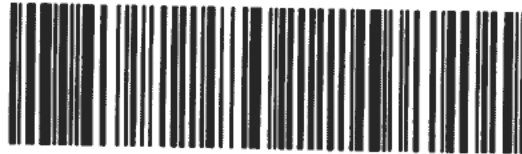
B. USPS Action

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 0019 9763 19

C.TIGUE 17155

