

No. 2020-6438

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

Date: 08/20/2020

Subject Considered:

Porfirio Tapia
[REDACTED]
Corpus Christi, Texas 78467

Default Order
SOAH Docket No. 454-20-4186.C
TDI Enforcement File No. 16637

General remarks and official action taken:

This is a default order taken against Porfirio Tapia (Respondent) because he misappropriated premiums and converted them to his own use and engaged in fraudulent or dishonest acts and practices. 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 July 8, 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], Corpus

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Commissioner's Order

Porfirio Tapia

SOAH Docket No. 454-20-4186.C

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Christi, Texas 78467. The Notice of Hearing and Original Petition were also sent by electronic mail and to two additional addresses associated with Respondent: [REDACTED], [REDACTED], Corpus Christi, Texas 78404, and [REDACTED], Corpus Christi, Texas 78404.

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, 4051.051, 4054.051 and 4101.051; 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.

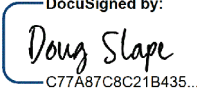
Order

It is ordered that Porfirio Tapia's general lines agent license with a life, accident, and health qualification and a general lines agent license with a property and casualty qualification, and his adjuster license with a property and casualty qualification 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.

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Commissioner's Order
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Kent C. Sullivan
Commissioner of Insurance

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

Prepared and reviewed by:



Whitney Fraser, Litigation Director
Enforcement Division

2020-6438

Commissioner's Order
Porfirio Tapia
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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 Porfirio Tapia. I have confirmed that:

- a. The last mailing address provided to the department in writing by Porfirio Tapia is [REDACTED], Corpus Christi, Texas 78467.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated July 8, 2020, which were filed with the State Office of Administrative Hearings.
- c. On July 8, 2020, the Notice of Hearing and Original Petition addressed to Porfirio Tapia were mailed first-class and certified, return receipt requested, to his last known address and two additional addresses: [REDACTED], Corpus Christi, Texas 78404, and [REDACTED], Corpus Christi, Texas 78404.

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:

95A3C3D5899E423...

Affiant

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Commissioner's Order

Porfirio Tapia

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 7/31/2020, 2020. This notarial act was an online notarization.

Notary Seal



Digital Certificate

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

2020-6438

ACCEPTED
454-20-4186
07/08/2020 12:24 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

FILED
454-20-4186
7/8/2020 9:26 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

**SOAH DOCKET NO. 454-20-4186.C
TDI ENFORCEMENT FILE NO. 16637**

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

PORFIRIO TAPIA,

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, October 7, 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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Notice of Hearing

Porfirio Tapia

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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) Whitney Fraser, Litigation Director
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104

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Notice of Hearing

Porfirio Tapia

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(512) 490-1020 (Fax)
Whitney.Fraser@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.

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

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Notice of Hearing
Porfirio Tapia
SOAH Docket No. 454-20-4186.C
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Respectfully Submitted,



Whitney Ellis Fraser
State Bar No. 24057835
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6341 (Direct)
(512) 490-1020 (Fax)
Whitney.Fraser@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

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

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Notice of Hearing
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CERTIFICATE OF SERVICE

I, Whitney Fraser, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by email and by certified mail, return receipt requested, on this 8th day of July, 2020 to:

Porfirio Tapia
[REDACTED]
Corpus Christi, TX 78467

Via Email: [REDACTED]
Via CM/RRR No.: 9214 8901 9403 8315 8720 04

[REDACTED]
Corpus Christi, TX 78404

Via CM/RRR No.: 9214 8901 9403 8315 8722 02

[REDACTED]
Corpus Christi, TX 78404

Via CM/RRR No.: 9214 8901 9403 8315 8755 17

W Fraser

Whitney Fraser

**SOAH DOCKET NO. 454-XX-XXXX
TDI ENFORCEMENT FILE NO. 16637**

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

PORFIRO TAPIA,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to take disciplinary action against Porfirio Tapia. 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, 4051.051, 4054.051 and 4101.051, and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

1. Porfirio Tapia (Tapia), individual identification no. 388164, holds a general lines agent license with a life, accident, and health qualification and a property and casualty qualification issued by the Texas Department of Insurance on September 4, 1985. Tapia also holds an adjuster license with a property and casualty qualification.
2. Tapia is doing the business of insurance with a registered name of Tapia Insurance Agency.
3. Tapia has engaged in a pattern of misconduct that has led to multiple insureds having lapses in insurance coverage with Texas Windstorm Insurance Association (TWIA) resulting in uncovered losses.



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Original Petition

Porfirio Tapia

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4. Tapia received a premium payment of \$698 from consumer R.M. on April 4, 2017 for renewal of his TWIA policy #xxxxxx792-01.
5. Tapia failed to timely forward the renewal premium and the policy expired on May 9, 2017.
6. On September 13, 2017, Tapia submitted a new application and the premium to renew R.M.'s policy #xxxxxx792-01. TWIA issued policy #xxxxxx792-02 in replacement with an effective date of September 15, 2017.
7. The delay in providing payment to renew the windstorm coverage resulted in a lapse of coverage between May 9 and September 15, 2017, during which time R.M. incurred an uncovered loss from Hurricane Harvey. The damages have not been paid for or repaired.
8. Tapia received a premium payment of \$1,000 from consumer J.M.'s mortgage company on May 8, 2017, for renewal of her TWIA policy #xxxxxx916-01.
9. Tapia failed to timely forward the renewal premium and the policy expired on June 10, 2017.
10. On August 31, 2017, Tapia submitted a new application and the premium to renew J.M.'s policy #xxxxxx916-01. TWIA issued policy # xxxxxx916-02 in replacement with an effective date of September 7, 2017.
11. The delay in providing payment to renew the windstorm coverage resulted in a lapse of coverage between June 10 and September 7, 2017, during which time R.M. incurred an uncovered loss from Hurricane Harvey. The damages have not been paid for or repaired.
12. Tapia received a premium payment of \$1,200 from consumer B.D. on June 12, 2017 for renewal of his TWIA policy #xxxxxx440-01.
13. Tapia failed to timely forward the renewal premium and the policy expired on June 21, 2017.

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Original Petition

Porfirio Tapia

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14. On November 9, 2017, Tapia submitted a new application and \$929 in premium to renew B.D.'s policy #xxxxxx440-01. TWIA issued policy #xxxxxx440-02 in replacement with an effective date of November 9, 2017.
15. The delay in providing payment to renew the windstorm coverage resulted in a lapse of coverage between June 21 and November 9, 2017, during which time B.D. incurred an uncovered loss from Hurricane Harvey. Tapia's errors and omissions insurance paid for B.D.'s damages.

Legal Allegations

1. Tapia 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. Tapia willfully violated an insurance law of this state, as contemplated by TEX. INS. CODE § 4005.101(b)(1).
3. Tapia misappropriated, converted to his own use, or illegally withheld money belonging to an insured or insurer, as contemplated by TEX. INS. CODE § 4005.101(b)(4).
4. Tapia engaged in fraudulent or dishonest acts or practices, in violation of 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 Porfirio Tapia's licenses and
2. any other just and appropriate relief to which the department may be entitled to by law, including any combination of the above actions.

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Original Petition

Porfirio Tapia

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Respectfully Submitted,



Whitney Ellis Fraser
State Bar No. 24057835
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6341 (Direct)
(512) 490-1020 (Fax)
Whitney.Fraser@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

2020-6438



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: 07/08/2020
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	3
Total	3



*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:

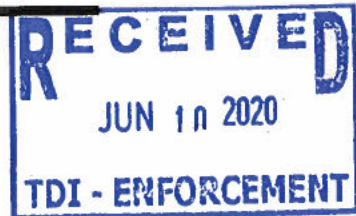
1. Home screen > Mailing/Shipping > More
2. Select Shipment Confirm
3. Scan or enter the barcode/label number from PS Form 5630
4. Confirm the volume count message by selecting Yes or No
5. Select Pay and End Visit to complete transaction

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 0022 8399 53



fraser/16637

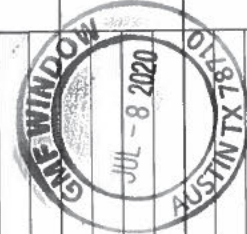


Name and Address of Sender
MC 110-1A M RUIZ
Texas Department of Insurance
333 Guadalupe St
Austin Tx 78701

- 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

Affix Stamp Here
(if issued as an international certificate of mailing or 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 8315 8720 04 fraser/16637	PORFIRO TAPIA [REDACTED] CORPUS CHRISTI TX 78467	1.40	3.55								1.70			
2. 9214 8901 9403 8315 8722 02	PORFIRO TAPIA [REDACTED] CORPUS CHRISTI TX 78404	1.40	3.55								1.70			
3. 9214 8901 9403 8315 8755 17	PORFIRO TAPIA [REDACTED] CORPUS CHRISTI TX 78404	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



Postmaster, Per (Name of receiving employee)

[Signature]

Total Number of Pieces Listed by Sender: 3
Total Number of Pieces Received at Post Office: 3

Complete in Ink

2020-6438

Date Produced: 07/13/2020

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8315 8720 04. Our records indicate that this item was delivered on 07/11/2020 at 09:58 a.m. in CORPUS CHRISTI, TX 78467. The scanned image of the recipient information is provided below.

Signature of Recipient :


COVID-19

Address of Recipient :

[Redacted address box]

Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

APIA
CORPUS CHRISTI TX 78467



Customer Reference Number: C2149695.12222895
Return Reference Number: Fraser/16637

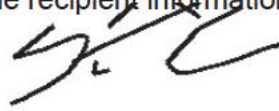

2020-6438

Date Produced: 07/20/2020

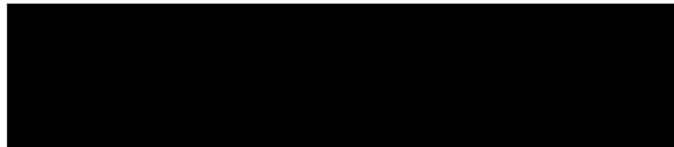
ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8315 8722 02. Our records indicate that this item was delivered on 07/13/2020 at 09:10 a.m. in CORPUS CHRISTI, TX 78404. The scanned image of the recipient information is provided below.

Signature of Recipient :

Address of Recipient :




Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:


CORPUS CHRISTI TX 78404

Customer Reference Number: C2149695.12222896