

No. 2020-6544

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

Date: 11/05/2020

Subject Considered:

Donald Anthony Wosmek


Phoenix, AZ 85020

Default Order
SOAH Docket No. 454-21-0219.C
TDI Enforcement File No. 25310

General remarks and official action taken:

This is a default order taken against Donald Anthony Wosmek (Respondent) because he does not hold a resident license in good standing in his home state, and he failed to notify the Texas Department of Insurance (TDI) of administrative actions taken against him by insurance regulators in other states. Respondent did not respond to a Notice of Hearing filed by TDI. 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 September 28, 2020, TDI filed a Notice of Hearing, attached as Exhibit A, and an Amended Petition, attached as Exhibit B, with the State Office of Administrative Hearings.
2. TDI's factual allegations set out in the attached Notice of Hearing and Amended Petition are incorporated in this order as findings of fact.

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3. TDI sent the Notice of Hearing and Amended Petition to Respondent's last known address provided in writing to TDI, [REDACTED] Phoenix, Arizona 85020. The Notice of Hearing and Amended Petition were also sent by fax.
4. Respondent failed to file a written response to the Notice of Hearing within 20 days of the date the Notice of Hearing and Amended 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, 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. TDI 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, TDI is entitled to disposition by default pursuant to 28 TEX. ADMIN. CODE §§ 1.88 and 1.89.
5. TDI's factual and legal allegations set out in the attached Notice of Hearing and Amended 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 Donald Anthony Wosmek 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

DocuSigned by:

By: C77A87C8C21B435...
Doug Slape
Chief Deputy Commissioner
TEX. GOV'T CODE § 601.002
Commissioner's Order No. 2018-5528

Prepared and reviewed by:



Kaycee Crisp, 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 Donald Anthony Wosmek. I have confirmed that:

- a. The last mailing address provided to TDI in writing by Donald Anthony Wosmek is [REDACTED], Phoenix, Arizona 85020.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Amended Petition dated September 28, 2020, which were filed with the State Office of Administrative Hearings.
- c. On September 28, 2020, the Notice of Hearing and Amended Petition addressed to Donald Anthony Wosmek 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."

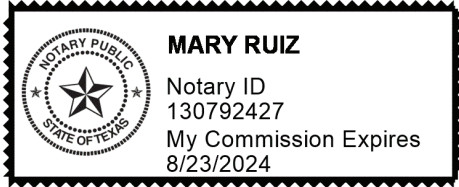
DocuSigned by:

0A4FF48B234A413...
Affiant

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 10/22/2020. This notarial act was an online notarization.

Notary Seal



Digital Certificate

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

2020-6544

ACCEPTED
454-21-0219
9/28/2020 9:15 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

FILED
454-21-0219
9/28/2020 9:14 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

**SOAH DOCKET NO. 454-21-0219
TDI ENFORCEMENT FILE NO. 25310**

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

DONALD ANTHONY WOSMEK,

ADMINISTRATIVE HEARINGS

Respondent

NOTICE OF HEARING

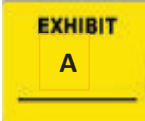
The Texas Department of Insurance (TDI) seeks to take disciplinary action against you. This Notice of Hearing and the Amended Petition, which is attached and incorporated for all purposes, states the allegations against you and the relief sought by TDI.

A public hearing will be held before an Administrative Law Judge on **Monday, December 7, 2020, 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, 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, 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) Kaycee Crisp, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 490-1020 (Fax)
kaycee.crisp@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 "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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If you have any questions, please contact me at the address or telephone number shown below.

Respectfully Submitted,



Kaycee Crisp
State Bar No. 24057368
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6327 (Direct)
(512) 490-1020 (Fax)
kaycee.crisp@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

Enclosure: Amended 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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CERTIFICATE OF SERVICE

I, Kaycee Crisp, certify that a true and correct copy of the *Notice of Hearing and the Amended Petition* were sent by certified mail, return receipt requested, on this 28th day of September, 2020 to:

Donald Anthony Wosmek
[REDACTED]
Phoenix, AZ 85020
Respondent Pro Se

Via CM/RRR No.: 9214 8901 9403 8321 8774 51
Via Fax: [REDACTED]



Kaycee Crisp

2020-6544

ACCEPTED
454-21-0219
9/28/2020 8:06 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

FILED
454-21-0219
9/25/2020 2:37 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Jodi Brown, CLERK

**SOAH DOCKET NO. 454-21-0219
TDI ENFORCEMENT FILE NO. 25310**

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

DONALD ANTHONY WOSMEK,

ADMINISTRATIVE HEARINGS

Respondent

AMENDED PETITION

The Texas Department of Insurance (TDI) is seeking to take disciplinary action against Donald Anthony Wosmek (Wosmek). The department previously filed an Original Petition and is now amending those allegations. In support of this amended 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, and 4054.051, and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

1. Wosmek, individual identification number 1834349, holds a non-resident general lines license with a life, accident, health, and HMO qualification, originally issued by TDI on October 26, 2017.
2. Wosmek has a Texas non-resident license because he lives in Arizona. This license type requires that Wosmek have a resident license in good standing in his home state.
3. On September 26, 2019, the State of Arizona Department of Insurance issued Order no. 18A-121-INS revoking Wosmek's Arizona resident insurance producer license for failure to submit required fingerprint forms. Wosmek did not provide TDI with notice of this revocation.



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4. On July 8, 2020, the South Carolina Department of Insurance issued a default order revoking Wosmek's nonresident producer insurance license. Wosmek did not inform TDI of this revocation.

Legal Allegations

1. Wosmek does not hold a license in good standing as an agent in his home state of residence, as required by TEX. INS. CODE § 4056.052, and is no longer eligible to hold a non-resident license in Texas.
2. Wosmek did not notify TDI of the administrative actions taken against him by insurance regulators of other states, in violation of TEX. INS. CODE § 4001.252(a)(3).

Relief Sought

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

1. revoking Wosmek's license and
2. imposing any other just and appropriate relief to which TDI may be entitled to by law, including any combination of the above actions.

Respectfully Submitted,



Kaycee Crisp
State Bar No. 24057368
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6327 (Direct)
(512) 490-1020 (Fax)
Kaycee.Crisp@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: 09/28/2020
 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 0024 3745 68



CRISP/25310





Firm Mailing Book For Accountable Mail

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
 (for additional copies of this receipt).
 Postmark with Date of Receipt.

USPS Tracking/Article Number

1. 9214 8901 9403 8321 8174 51

Address (Name, Street, City, State, & ZIP Code™)
 DONALD ANTHONY WOSMER PHOENIX AZ 85020

Postage

(Extra Service) Fee

Handling Charge

Actual Value if Registered

Insured Value

Due Sender if COD

ASR Fee

ASRD Fee

RD Fee

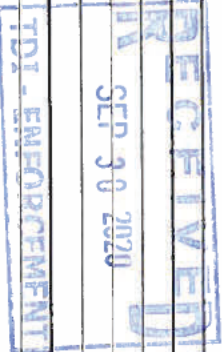
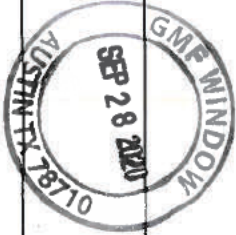
RR Fee

SC Fee

SCRD Fee

SH Fee

CRISP/25310



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
0.80	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

Total Number of Pieces Received at Post Office

Postmaster, Per (Name of receiving employee)

Complete in Ink

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

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