

No. 2021-6761

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

Date: 04/01/2021

Subject Considered:

Erick Bernard Davis
[REDACTED]
Cedar Hill, TX 75104

Default Order
SOAH Docket No. 454-21-1567
TDI Enforcement File No. 23937

General remarks and official action taken:

The subject of this default order is whether a general lines property and casualty license should be issued to Erick Bernard Davis (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 March 3, 2021, 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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Hill, TX 75104. The Notice of Hearing and Original Petition were also sent by electronic mail.

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, 4001.102, 4001.105, 4005.101-4005.105, and 4101.051; TEX. OCC. CODE §§ 53.021-53.023; 28 TEX. ADMIN. CODE § 1.502; 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 Erick Bernard Davis's application is denied. 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

By: 
C77A87C8C21B435...

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

Prepared and reviewed by:

L. Merida

Latoya Merida, 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 Erick Bernard Davis. I have confirmed that:

- a. The last mailing address provided to the department in writing by Erick Bernard Davis is [REDACTED] Cedar Hill, TX 75104.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated March 3, 2021, which were filed with the State Office of Administrative Hearings.
- c. On March 3, 2021, the Notice of Hearing and Original Petition addressed to Erick Bernard Davis were mailed certified, return receipt requested and by electronic mail, to his last known address.

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

DocuSigned by:
David Moreno
4B6B5C06E6D3489...

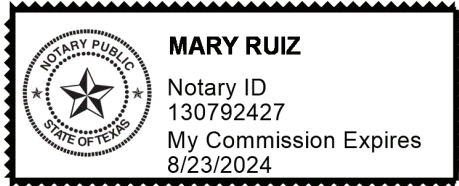
Affiant

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 3/25/2021. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:
Mary Ruiz
795DC4D59167489...

Notary Public State of Texas

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ACCEPTED
454-21-1567
03/03/2021 1:34 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

FILED
454-21-1567
3/3/2021 1:27 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

**SOAH DOCKET NO. 454-21-1567
TDI ENFORCEMENT FILE NO. 23937**

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

ERICK BERNARD DAVIS,

ADMINISTRATIVE HEARINGS

Respondent

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, July 6, 2021, at 1:00 p.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

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Notice of Hearing

Erick Bernard Davis

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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) Latoya Merida, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 490-1020 (Fax)
Latoya.merida@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 hyperlink "Request Service by Email (only for use by self-represented litigants)," 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,

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Notice of Hearing

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L. Merida

Latoya Merida
State Bar No. 24089625
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6344 (Direct)
(512) 490-1020 (Fax)
Latoya.merida@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

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

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CERTIFICATE OF SERVICE

I, Latoya Merida, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by certified mail, return receipt requested, and electronic mail on this 3rd day of March, 2021 to:

Erick Bernard Davis
[REDACTED]
Cedar Hill, TX 75104
Respondent Pro Se

CM/RRR: 9214 8901 9403 8333 5150 82

Via Email: [REDACTED]

L. Merida

Latoya Merida

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

ERICK BERNARD DAVIS,

ADMINISTRATIVE HEARINGS

Respondent

ORIGINAL PETITION

The Texas Department of Insurance seeks to deny Erick Bernard Davis’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, and 4051.051, and 28 TEX. ADMIN. CODE § 1.502; and TEX. OCC. CODE §§ 53.021 – 53.023 TEX. GOV’T CODE §§ 2001.051-2001.178.

Factual Allegations

License Application

1. On September 4, 2019, Erick Bernard Davis (Davis) applied for a general lines property and casualty license to be issued by the Texas Department of Insurance (TDI).
2. On November 14, 2019, TDI proposed to deny Davis’s application based on his criminal history. Davis appealed that decision and made a written request for a hearing on December 10, 2019.

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Original Petition
Erick Bernard Davis
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Previous Licensure

3. Davis, individual identification number 693120, held a general lines agent license with a life, accident, health & HMO qualification issued by the Texas Department of Insurance on July 10, 2006, and a property and casualty qualification issued by the department on May 12, 2011.
4. The Texas Department of Insurance revoked Davis's license on August 26, 2014.

Criminal History

5. On June 16, 2003, Davis pleaded guilty to the Class B Misdemeanor offense of Failure to Identify Oneself to a Peace Officer in Cause No. 1167945 in the County Criminal Court at Law No. 2 in Harris County, Texas for an offense occurring on April 13, 2003. Davis received 3 days of confinement and was ordered to pay a fine.
6. On December 6, 2005, Davis pleaded guilty to the Class A Misdemeanor offense of Assault-Family Member in Cause No. 1336634 in Harris County, Texas for an offense occurring on November 2, 2005. Davis received 2 days of confinement.
7. On May 31, 2012, following a guilty plea, Davis was adjudicated guilty of the federal felony offenses of Conspiracy to Commit Bank Fraud and Aiding and Abetting Bank Fraud in United States District Court for the Southern District of Texas, Cause No. 11 CR 445, and sentenced to 2 years of probation.

Previous Administrative Action and License Revocation

8. On March 12, 2014, the department filed a Notice of Hearing in SOAH Docket No. 454-14-2633.C to consider disciplinary action against Davis. In the Notice of Hearing, the department considered disciplinary action against Davis for being convicted of felony conspiracy to commit bank fraud and bank fraud, aiding and abetting. Davis also failed to complete 30 hours of continuing education during the 2011 to 2013 continuing education reporting period.
9. On August 26, 2014, the Texas Commissioner of Insurance signed Order No. 3508, revoking Davis's general, life, accident, and health license and general property and casualty license.

Legal Allegations

1. Davis has committed an act for which a license may be denied pursuant to TEX. INS. CODE § 4005.101(b) because he has been convicted of a felony, as contemplated by TEX. INS. CODE § 4005.101(b)(8) and TEX. OCC. CODE § 53.021(d).
2. Davis has committed a felony that directly relates to the business of insurance, as contemplated in TEX. OCC. CODE § 53.021-53.023.
3. Davis has committed a felony offense, as contemplated in 28 TEX. ADMIN. CODE §§ 1.502(e).
4. Davis committed an offense that TDI considers to be of such serious nature that it is of prime importance in determining fitness for licensure or authorization, as contemplated by 28 TEX. ADMIN. CODE § 1.502(e)(1).
5. Davis had a previous license revoked by the Commissioner of Insurance, as contemplated by TEX. INS. CODE § 4005.105(b).
6. Davis has failed to show good cause why the revocation of the previous license should not be considered a bar to the issuance of a new license, as contemplated by TEX. INS. CODE § 4005.105(c).
7. 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 a felony or has engaged in fraudulent or dishonest activity that directly relates to the duties and responsibilities of the licensed occupation; and
 - c. considers a fraud offense 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)(1).

8. Davis has been convicted of a felony involving dishonesty or breach of trust, as specified in 18 U.S.C § 1033 and requiring written consent from the commissioner of insurance to engage or participate in the business of insurance.

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 Erick Bernard Davis's license application and
2. imposing 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,

L. Merida

Latoya Merida
State Bar No. 24089625
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6344 (Direct)
(512) 490-1020 (Fax)
Latoya.merida@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

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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: 03/03/2021

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	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

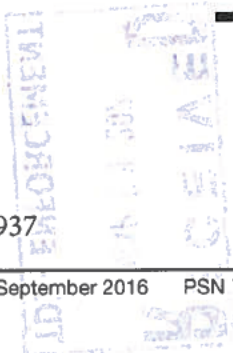
USPS EMPLOYEE: Please scan upon pickup or receipt of mail.
Leave form with customer or in customer's mail receptacle.

USPS SCAN AT ACCEPTANCE



9275 0901 1935 6200 0027 3391 75

merida/23937





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

USPS Tracking/Article Number
 9214 8901 9403 8333 5150 82
 merida/23937

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.

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	3.60								1.75			
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						

RECEIVED
 MAR 08 2021
 TDI - ENFORCEMENT

OLEVIA
 MAR 6 2021
 GREAT WINDOW
 AUSTIN, TX

Total Number of Pieces Listed by Sender: 1
 Total Number of Pieces Received at Post Office: 1
 Postmaster, Per (Name of receiving employee)

PS Form 3877, January 2017 (Page 1 of 1) Complete in Ink
 Privacy Notice: For more information on USPS privacy policies, visit usps.com/privacypolicy.
 PSN 7530-02-000-9098 JobId: 2552937

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