

No. 2022-7428

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

Date: 08/10/2022

Subject Considered:

Jamar D. Perry

[REDACTED]
Houston, TX 77098-0019

Default Order
SOAH Docket No. 454-22-04324
TDI Enforcement File No. 29472

General remarks and official action taken:

The subject of this default order is whether a life agent license should be issued to Jamar D. Perry (Respondent). Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance. This order denies Respondent's license application.

Findings of Fact

Failure to Respond to Notice of Hearing

1. On June 29, 2022, the department filed a Notice of Hearing, attached as Exhibit A, and on June 27, 2022, filed 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], [REDACTED], Houston, TX 77098-0019. The Notice of Hearing and Original Petition were also sent by electronic mail.

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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 under Texas law, including TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4001.102, 4001.105, 4005.101-4005.105, and 4054.301; 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 under 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 under 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 under 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 under 28 TEX. ADMIN. CODE § 1.89.

Order

It is ordered that Jamar D. Perry's application is denied. A copy of this order will be provided to law enforcement or other appropriate administrative agencies for further investigation as may be warranted.

DocuSigned by:

FC5D7EDDFB84F8...

Cassie Brown
Commissioner of Insurance

2022-7428

Commissioner's Order

Jamar D. Perry

SOAH Docket No. 454-22-04324

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Prepared and reviewed by:

/s/ Jeannie Ricketts

Jeannie Ricketts, Staff Attorney
Enforcement

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 Jamar D. Perry. I have confirmed that:

- a. The last mailing address provided to the department in writing by Jamar D. Perry is [REDACTED], Houston, TX 77098-0019.
- b. The file maintained by Enforcement contains a Notice of Hearing dated June 29, 2022, and Original Petition dated June 27, 2022, which were filed with the State Office of Administrative Hearings.
- c. On June 29, 2022, the Notice of Hearing and Original Petition addressed to Jamar D. Perry were mailed first-class and certified, return receipt requested, to his last known address.

Copies of the first-class mail log and certified mail log maintained by Enforcement are attached as Exhibit C and Exhibit D, respectively."

DocuSigned by:

 9CE0B9E28DF04D0... _____
 Affiant

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 7/26/2022. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:
Mary Ruiz
795DC4D59167489...

Notary Public State of Texas

2022-7428

FILED
454-22-04324
6/29/2022 11:06 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

**SOAH DOCKET NO. 454-22-04324
TDI ENFORCEMENT FILE NO. 29472**

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

JAMAR D. PERRY,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ACCEPTED
454-22-04324
6/29/2022 11:12:27 am
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

NOTICE OF HEARING

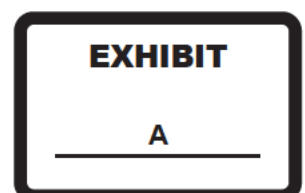
The Texas Department of Insurance seeks to deny your license application. This Notice of Hearing and the Original Petition, which is attached and incorporated for all purposes, states the allegations against you and the relief sought by the Department.

A public hearing will be held before an Administrative Law Judge on **Tuesday, September 13, 2022, 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 under 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 UNDER 1 TEX. ADMIN. CODE § 155.501 AND 28 TEX. ADMIN. CODE §§ 1.88 AND 1.89.



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Notice of Hearing

Jamar D. Perry

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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) *(by mail, fax, or electronically)*
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);
www.soah.texas.gov
- (2) *(by mail, fax, or email)*
Chief Clerk
Texas Department of Insurance
P.O. Box 12030, MC GC-CCO
Austin, Texas 78711-2030
(512) 490-1064 (Fax)
chiefclerk@tdi.texas.gov; and
- (3) *(by mail, fax, or email)*
Jeannie Ricketts, Staff Attorney
Texas Department of Insurance
Enforcement, MC ENF

2022-7428

Notice of Hearing

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SOAH Docket No. 454-22-04324

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P.O. Box 12030
Austin, Texas 78711-2030
(512) 490-1020 (Fax)
jeannie.ricketts@tdi.texas.gov

Receiving Documents Electronically and Filing Documents with SOAH

The State Office of Administrative Hearings (SOAH) offers you the ability to electronically receive orders and other documents issued by SOAH by email instead of by mail. If you want to receive SOAH-issued documents by email, follow the instructions on SOAH's website: www.soah.texas.gov.

A request to receive SOAH-issued documents by email does not change the procedures you must follow to file documents or exhibits with SOAH. Instructions on how to file documents and exhibits are on SOAH's website. SOAH's website also includes guidance for representing yourself.

Important Security Notice (for In-Person Hearings ONLY)

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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Jamar D. Perry

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

Respectfully Submitted,

Jeannie Ricketts

Jeannie Ricketts

State Bar No. 24041774

Texas Department of Insurance

Enforcement, MC ENF

P.O. Box 12030

Austin, Texas 78711-2030

(512) 676-6336 (Direct)

(512) 490-1020 (Fax)

Jeannie.Ricketts@tdi.texas.gov

ATTORNEY FOR THE PETITIONER

TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

cc: Leah Gillum, Deputy Commissioner, Fraud and Enforcement Division, MC ENF
Whitney Fraser, Litigation Director, Enforcement, MC ENF
Administrative Review, MC CO-AAL

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CERTIFICATE OF SERVICE

I, Jeannie Ricketts, 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 28th day of June 2022 to:

Jamar D. Perry



Houston, TX 77098-0019

Respondent Pro Se

Via CM/RRR No.: 9214 8901 9403 8380 9773 76

Jeannie Ricketts

Attorney Name

2022-7428

SOAH DOCKET No. 454-22-04324

FILED
454-22-04324
6/27/2022 4:29 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NO. 29472

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

ACCEPTED
454-22-04324
6/27/2022 4:32:07 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

v.

OF

JAMAR D. PERRY,

ADMINISTRATIVE HEARINGS

Respondent

ORIGINAL PETITION

The Texas Department of Insurance seeks to deny Jamar D. Perry'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 under TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, and 4054.301; TEX. GOV'T CODE §§ 2001.051-2001.178; TEX. OCC. CODE §§ 53.021-53.023; and 28 TEX. ADMIN. CODE § 1.502.

Factual Allegations

License Application:

1. Jamar D. Perry (Perry) applied for a life agent license with TDI on or about November 12, 2021.
2. Perry did not disclose his criminal history in his license application. When TDI subsequently asked Perry to explain the circumstances leading to his offense, Perry described a different offense rather than the offense for which he was convicted.
3. On February 7, 2022, TDI proposed to deny Perry's license application. Perry requested a hearing on February 22, 2022.

EXHIBIT

B

Criminal History:

4. While serving in his tenth year in the U.S. Navy, in April 2010, Perry committed the offense of forcible sodomy against a fellow serviceman.
5. On or about October 12, 2010, the U.S. Navy arraigned and tried Perry for violating Uniform Code of Military Justice (UCMJ) 10 U.S.C.A. Subtitle A, Part II, (former) § 925, Art. 125,¹ in the case styled *U.S.A. v. Perry*.
6. The Navy convicted and sentenced Perry to 13 months confinement, reduced his pay grade to E-1 (from E-6), and discharged him based upon bad conduct in General Court Martial Order no. 03-11, and General Court Martial Supplemental Order no. 11-0387.
7. On June 30, 2011, the Navy-Marine Corps Court of Criminal Appeals (NMCCA) in no. 201100054 affirmed the findings and sentencing.
8. Under the UCMJ, the offense of forcible sodomy is now addressed in 10 U.S.C.A. § 920, art. 120 concerning Rape and Sexual Assault Generally.
9. Similarly, under Texas law, the former offense of forcible sodomy is addressed in TEX. PEN. CODE § 22.011 concerning Sexual Assault.
10. Under TEX. PEN. CODE § 22.011(f), the offense of sexual assault is a felony of the second degree.
11. The elements of sexual assault under 10 U.S.C.A. § 920, art. 120 (formerly Sec. 925, Art. 125) are similar² to sexual assault under TEX. PEN. CODE § 22.011(f).
12. The trial report for Perry's General Court Martial Order no. 03-11 describes the offense of sexual assault.

¹ Effective Dec. 23, 2016, Pub. L. No. 114-328 amended Sec. 925, Art. 125 to address Kidnapping. 10 U.S.C.A. § 920, art. 120(b) addresses Sexual Assault.

² *Fisk v. State*, 538 S.W.3d 763, n. 7 (Tex. Crim. App. 2019, pet. granted)(During the resentencing hearing, Jacquelyn Christilles testified for the State as an expert in military law and opined that the elements of former Article 125—Sodomy are similar to section 22.011 sexual assault under the Texas Penal Code).

13. TEX. OCC. CODE § 52.021(a)(2) authorizes a licensing authority to disqualify a person from receiving a license on the grounds the person has been convicted of the offense of sexual assault under TEX. PEN. CODE § 22.011, listed in Code of Criminal Procedure Art. 42A.054(a)(8).

The Information to which Palmer pleaded guilty in case number C203982 in Nevada details an offense that contains elements that are substantially similar to Texas Penal Code Section 21.11(1), which criminalizes indecency with a child by contact. TEX. OCC. CODE 53.021(a)(4) and TEX. CRIM. PROC. CODE 62.001(6)(A) and 62.001(6)(E) disqualify a person who has been convicted of the offense of indecency with a child by contact from receiving a license.

Legal Allegations

1. Based on Perry's criminal history, he committed acts for which a license may be denied under TEX. INS. CODE, Chapter 4005, Subchapter C, because he:
 - a. intentionally made a material misstatement in his license application, as contemplated by TEX. INS. CODE § 4005.101(b)(2); and
 - b. has attempted to obtain a license by misrepresentation under TEX. INS. CODE § 4005.101(b)(3).
2. Perry has been convicted of a felony-level offense under the Uniform Code of Military Justice in NMCCA no. 201100054, which is equivalent to TEX. PEN. CODE § 21.011; listed in TEX. CODE OF CRIM. PROC. Art. 42A.054(a)(8), referenced in TEX. OCC. CODE § 53.021(a)(2).
3. Under TEX. OCC. CODE § 53.021 and 28 TEX. ADMIN. CODE § 1.502(e)(4)(B), Perry committed an offense of such a serious nature that TDI considers it of prime importance in determining fitness for licensure.
4. TDI guidelines, 28 TEX. ADMIN. CODE § 1.502(c)-(e), emphasize that TDI:
 - a. considers it very important that applicants be honest, trustworthy, and reliable; and
 - b. considers an offense with the essential elements of the felony offense of assault as described by TEX. PEN. CODE Ch. 22 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)(B).

5. The factors listed in 28 TEX. ADMIN. CODE § 1.502(h) do not outweigh the serious nature of Perry's criminal offense, as 28 TEX. ADMIN. CODE § 1.502(f) contemplates.
6. Under § 1.502(h)(2)(E), Perry's initial failure to disclose his felony-level offense to TDI and his subsequent mischaracterization of his offense indicate he is not fully rehabilitated.

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 Perry'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,

Jeannie Ricketts

Jeannie Ricketts
State Bar No. 24041774
Texas Department of Insurance
Enforcement, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 676-6336 (Direct)
(512) 490-1020 (Fax)
Jeannie.Ricketts@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

Firm Mailing Book For Accountable Mail

2022-7428

Name and Address of Sender
 Texas Dept of Insurance
 Mail Code 110-1A
 333 Guadalupe St
 Austin TX 78701
 Mary Ruiz
 June 29, 2022

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	Address (Name, Street, City, State, & Zip Code)	Postage	(Extra Services) 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	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling
RICKETTS/29472	JAMAR D. PERRY [REDACTED] HOUSTON, TX 77098-0019			Handling Charge - Registered and over \$50,000 in value				Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery			

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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: 06/29/2022
 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 0037 6918 50

RICKETTS/29472



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

USPS Tracking/Article Number

1. 9214 8901 9403 8380 9773 76

RICKETTS/29472

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

JAMAR D. PERRY
[Redacted]
HOUSTON, TX 77098-0019

Affix Stamp Here

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

2022-7428

Table with columns: Postage, (Extra Service) Fee, Handling Charge, Actual Value, Insured Value, Due Sender if COD, ASR Fee, ASRD Fee, RD Fee, RR Fee, SC Fee, SCRD Fee, SH Fee. Includes a large 'EXHIBIT D' stamp.

Total Number of Pieces Listed by Sender: 1

Postmaster, Per (Name of receiving employee)