

No. 2023-8221

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

Date: 9/19/2023

Subject Considered:

Joshua Rodriguez

[REDACTED]
Mesquite, TX 75150

Default Order
SOAH Docket No. 454-23-22287
TDI Enforcement File No. 31777

General remarks and official action taken:

The subject of this default order is whether a general lines property and casualty agent license should be issued to Joshua Rodriguez (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 July 10, 2023, 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.

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Commissioner's Order

Joshua Rodriguez

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3. The department sent the Notice of Hearing and Original Petition to Respondent's last known address provided in writing to the department, [REDACTED] Mesquite, TX 75150.
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, 4005.101-4005.105, 4051.051; 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 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.

2023-8221

Commissioner's Order

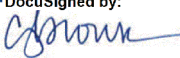
Joshua Rodriguez

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Order

It is ordered that Joshua Rodriguez'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:

FC5D7EDDFB4F8...

Cassie Brown
Commissioner of Insurance

Prepared and reviewed by:

/s/Erik Huhn

Erik Huhn, 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 Joshua Rodriguez. I have confirmed that:

- a. The last mailing address provided to the department in writing by Joshua Rodriguez is [REDACTED], Mesquite, TX 75150.
- b. The file maintained by Enforcement contains a Notice of Hearing and Original Petition dated July 10, 2023, which were filed with the State Office of Administrative Hearings.
- c. On July 10, 2023, the Notice of Hearing and Original Petition addressed to Joshua Rodriguez 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:

 8AEC45CAA7B14F9...
 Affiant

2023-8221

Commissioner's Order

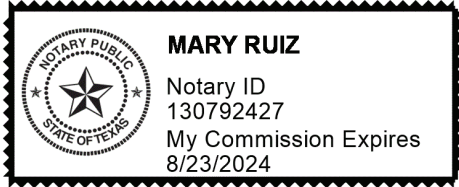
Joshua Rodriguez

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 8/3/2023. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:
Mary Ruiz
795DC4D59167489...

Notary Public State of Texas

2023-8221

FILED
454-23-22287
7/10/2023 2:01 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Pegah Nasrollahzadeh, CLERK

**SOAH DOCKET NO. 454-23-22287
TDI ENFORCEMENT FILE NO. 31777**

ACCEPTED
454-23-22287
7/10/2023 2:07:13 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Pegah Nasrollahzadeh, CLERK

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

JOSHUA RODRIGUEZ,

ADMINISTRATIVE HEARINGS

Respondent

NOTICE OF HEARING

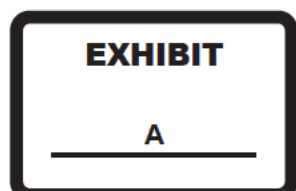
The Texas Department of Insurance seeks to deny your license application. This Notice of Hearing and the Original Petition, which is attached and incorporated for all purposes, states the allegations against you and the relief sought by the department.

A public hearing will be held before an Administrative Law Judge on **October 17, 2023, at 9 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

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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)*
Erik Huhn, Staff Attorney
Texas Department of Insurance
Enforcement, MC ENF

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P.O. Box 12030
Austin, Texas 78711-2030
(512) 490-1020 (Fax)
Erik.Huhn@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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Joshua Rodriguez

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

Respectfully Submitted,

/s/Erik Huhn

Erik Huhn
State Bar No. 24132806
Texas Department of Insurance
Enforcement, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 676-6355 (Direct)
(512) 490-1020 (Fax)
Erik.Huhn@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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Notice of Hearing

Joshua Rodriguez

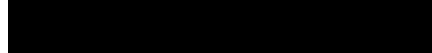
SOAH Docket No. 454-23-22287

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CERTIFICATE OF SERVICE

I, Erik Huhn, 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 10th day of July, 2023 to:

Joshua Rodriguez



Mesquite, TX 75150

Respondent Pro Se

Via CM/RRR No.:

9214 8901 9403 8321 9164 26

/s/Erik Huhn

Erik Huhn

2023-8221

FILED
454-23-22287
6/26/2023 11:40 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

SOAH DOCKET No. 454-23-22287

SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NO. 31777

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

JOSHUA RODRIGUEZ,

Respondent

BEFORE THE STATE OFFICE

ACCEPTED
454-23-22287
6/26/2023 1:01:03 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance (TDI) seeks to deny Joshua Rodriguez’s license application. In support of this petition, TDI makes the following allegations upon information and belief:

Jurisdiction

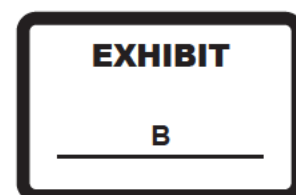
The Commissioner of Insurance has jurisdiction over this matter under TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, 4051.051; TEX. OCC. CODE §§ 53.021-53.023; 28 TEX. ADMIN. CODE § 1.502; and TEX. GOV’T CODE §§ 2001.051-2001.178

Factual Allegations

1. On November 21, 2022, Rodriguez applied for a general lines property and casualty agent license. Rodriguez disclosed his criminal history on his license application.
2. On March 14, 2023, TDI sent a proposed summary denial letter to Rodriguez denying his application based on his criminal history.
3. On March 29, 2023, TDI acknowledged receipt of Rodriguez’s request for a hearing on the denial.

Criminal History:

Cause No. 002-80096-2017 – Possession of Marijuana less than Two Oz



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4. On October 12, 2017, Rodriguez was convicted of misdemeanor Possession of Marijuana less than two Oz, in the County Court at Law #2 of Collin County, Texas. Rodriguez was sentenced to three days confinement in jail and fined \$150.

Cause No. 3989 – Possession of Marihuana

5. On June 17, 2019, Rodriguez pleaded guilty to Possession of Marihuana, a state jail felony, in the 100th District Court of Hall County, Texas. The court placed Rodriguez on deferred adjudication community supervision for three years, fined him \$2,500 and ordered him to complete 100 hours of community service.
6. On December 7, 2022, Rodriguez was discharged from probation.

Cause No. 366-83911-2019 – Manufacture or Delivery of Substance in PG 2 or 2-A Greater Than Four Grams but Less Than 400 Grams.

7. On April 27, 2021, Rodriguez pleaded guilty to Manufacture or Delivery of Substance in Penalty Group 2 or 2-A greater than four grams but less than 400 grams, a first-degree felony, in the 366th District Court for Collin County, Texas. The court placed Rodriguez on deferred adjudication community supervision for 10 years.
8. Rodriguez is currently on community supervision.

Cause No. 366-81054-2020 – Manufacture or Delivery of Substance in PG 2 or 2-A Less than One Gram

9. On April 28, 2021, Rodriguez was convicted of Manufacture or Delivery of Substance in PG 2 or 2-A less than one gram, a state jail felony, in the 366th District Court for Collin County, Texas. Rodriguez was sentenced to one year confinement in state jail.

Legal Allegations

1. TDI may deny Rodriguez's license application because he has been convicted of a felony as contemplated by TEX. INS. CODE § 4005.101(b)(8).
2. Pursuant to TEX. OCC. CODE § 53.021(d)(1)(B)(i) and (d)(2)(A)-(B), TDI may consider Cause No. 3928 and Cause No. 366-83911-2019 to be felony convictions.
3. TDI may deny Rodriguez's license application because he has committed an offense of such serious nature that it is of prime importance in determining fitness of licensure, as contemplated by 28 TEX. ADMIN. CODE § 1.502(e)(4)(G).
4. The factors listed in 28 TEX. ADMIN. CODE § 1.502(h) do not outweigh the serious nature of Rodriguez's criminal history, as 28 TEX. ADMIN. CODE § 1.502(f) contemplates.

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. denying Joshua Rodriguez's license application; and
2. granting any other just and appropriate relief to which TDI may be entitled to by law.

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Respectfully Submitted,

/s/Erik Huhn

Erik Huhn
State Bar No. 24132806
Texas Department of Insurance
Enforcement, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 676-6355 (Direct)
(512) 490-1020 (Fax)
Erik.Huhn@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

2023-8221

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Mary Ruiz on behalf of Erik Huhn
Bar No. 24132806
Enforcementgeneral@tdi.texas.gov
Envelope ID: 76952990
Filing Code Description: Request to Docket
Filing Description: Request to Docket
Status as of 6/26/2023 1:02 PM CST

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	6/26/2023 11:40:28 AM	SENT

Associated Case Party: TDI

Name	BarNumber	Email	TimestampSubmitted	Status
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	6/26/2023 11:40:28 AM	SENT
Whitney Fraser		Whitney.Fraser@tdi.texas.gov	6/26/2023 11:40:28 AM	SENT
Erik Huhn		Erik.Huhn@tdi.texas.gov	6/26/2023 11:40:28 AM	SENT

Associated Case Party: Joshua Rodriguez

Name	BarNumber	Email	TimestampSubmitted	Status
Joshua Rodriguez		[REDACTED]	6/26/2023 11:40:28 AM	SENT

2023-8221

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Mary Ruiz on behalf of Erik Huhn
Bar No. 24132806
Enforcementgeneral@tdi.texas.gov
Envelope ID: 77355189
Filing Code Description: Notice of Hearing
Filing Description: Notice of Hearing and Original Petition
Status as of 7/10/2023 2:07 PM CST

Associated Case Party: TDI

Name	BarNumber	Email	TimestampSubmitted	Status
Whitney Fraser		Whitney.Fraser@tdi.texas.gov	7/10/2023 2:01:06 PM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	7/10/2023 2:01:06 PM	SENT
Erik Huhn		Erik.Huhn@tdi.texas.gov	7/10/2023 2:01:06 PM	SENT
Jodie Delgado		jodie.delgado@tdi.texas.gov	7/10/2023 2:01:06 PM	SENT
Leah Gillum		Leah.Gillum@tdi.texas.gov	7/10/2023 2:01:06 PM	SENT

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	7/10/2023 2:01:06 PM	SENT

2023-8221



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: 07/10/2023

Shipped From:

Name: MC ENF M RUIZ

Address: 1601 CONGRESS AVENUE SUITE 6 900

City: AUSTIN

State: TX ZIP+4® 78711

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

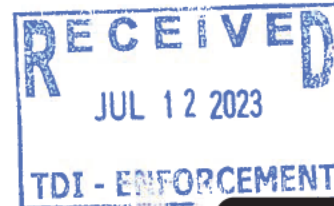
USPS EMPLOYEE: Please scan upon pickup or receipt of mail.
Leave form with customer or in customer's mail receptacle.

USPS SCAN AT ACCEPTANCE



9275 0901 1935 6200 0045 6049 41

HUHN/31777



EXHIBIT

D



Firm Mailing Book For Accountable Mail

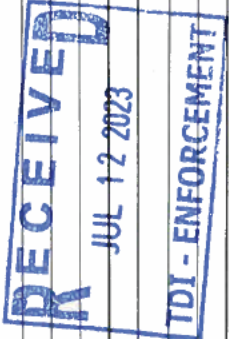
Name and Address of Sender
 MC ENF M RUIZ
 TEXAS DEPARTMENT OF INSURANCE
 1601 CONGRESS AVENUE, SUITE 6 900
 AUSTIN TX 78711

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 Restricted Delivery

USPS Tracking/Article Number
 9214 8901 9403 8321 9164 26
 HUH/31777

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
0.87	4.35	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: 1
 Total Number of Pieces Received at Post Office: 1
 Postmaster, Per (Name of receiving employee): [Signature]