

No. 2023-8342

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

Date: 11/16/2023

Subject Considered:

Emma Simmons

[REDACTED],
TX 76016

Default Order
SOAH Docket No. 454-24-03159.C
TDI Enforcement File No. 29003

General remarks and official action taken:

The subject of this default order is whether an all-lines adjuster license should be issued to Emma Simmons (Respondent). Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance (TDI). 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 October 16, 2023, TDI 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. TDI'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

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3. TDI sent the Notice of Hearing and Original Petition to Respondent's last known address provided in writing to the department, [REDACTED], Arlington, TX 76016. The Notice of Hearing and Original Petition was 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 under 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 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. TDI provided proper notice of the hearing under 28 TEX. ADMIN. CODE §§ 1.28, 1.88, 1.89, and 19.906; and TEX. GOV'T CODE §§ 2001.051, 2001.052, and 2001.054.
4. Based on Respondent's failure to file a written response to the Notice of Hearing, TDI is entitled to disposition by default under 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 Original Petition are incorporated in this order and deemed admitted as true under 28 TEX. ADMIN. CODE § 1.89.

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Commissioner's Order

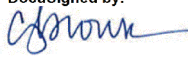
Emma Simmons

SOAH Docket No. 454-24-03159.C

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Order

It is ordered that Emma Simmons' 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:



Nancy Williams, Staff Attorney
Enforcement

Affidavit

STATE OF TEXAS §

§

COUNTY OF TRAVIS §


Before me, the undersigned authority, personally appeared Roxanne Rodriguez, who, being by me duly sworn, deposed as follows:

"My name is Roxanne Rodriguez 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 Emma Simmons. I have confirmed that:

- a. The last mailing address provided to the department in writing by Emma Simmons is [REDACTED], Arlington, TX 76016.
- b. The file maintained by Enforcement contains a Notice of Hearing dated October 16, 2023, and an Original Petition dated October 13, 2023, which were filed together with the State Office of Administrative Hearings on October 16, 2023.
- c. On October 16, 2023, the Notice of Hearing and Original Petition addressed to Emma Simmons were mailed certified, return receipt requested, to her last known address.

A copy of the certified mail log maintained by Enforcement is attached as Exhibit C."

DocuSigned by:

 BE3C86C9B717465...
 Affiant _____

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Commissioner's Order

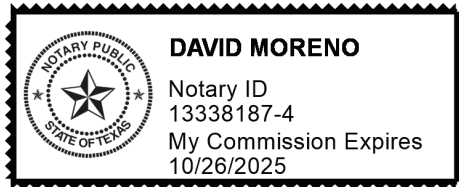
Emma Simmons

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 11/2/2023. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:
David Moreno
455E4109E15D4CD...
Notary Public State of Texas

FILED **2023-8342**
454-24-03159
10/16/2023 11:11 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Matilda Salas, CLERK

ACCEPTED
454-24-03159
10/16/2023 11:16:24 am
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Matilda Salas, CLERK

SOAH DOCKET NO. 454-24-03159
TDI ENFORCEMENT FILE NO. 29003

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

EMMA SIMMONS,

ADMINISTRATIVE HEARINGS

Respondent

NOTICE OF HEARING

The Texas Department of Insurance (TDI) 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 TDI.

A public hearing will be held before an Administrative Law Judge on **March 26, 2024, at 1 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 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.

EXHIBIT
A

2023-8342

Notice of Hearing

Emma Simmons

SOAH Docket No. 454-24-03159

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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)*
Nancy Williams, Staff Attorney
Texas Department of Insurance

2023-8342

Notice of Hearing

Emma Simmons

SOAH Docket No. 454-24-03159

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Enforcement, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 490-1020 (Fax)
nancy.williams@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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Notice of Hearing

Emma Simmons

SOAH Docket No. 454-24-03159

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

Respectfully Submitted,

/s/ Nancy Williams

Nancy Williams
State Bar No.24058175
Texas Department of Insurance
Enforcement, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 676-6338 (Direct)
(512) 490-1020 (Fax)
nancy.williams@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

Emma Simmons

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CERTIFICATE OF SERVICE

I, Nancy Williams, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent as indicated below, on this 16th day of October, 2023 to:

Emma Simmons

[REDACTED]

Arlington, TX 76016

CMRRR: 9214 8901 9403 8333 9512 86

Email: [REDACTED]

/s/ Nancy Williams

Nancy Williams

2023-8342

SOAH DOCKET No. 454-24-03159

FILED
454-24-03159
10/12/2023 4:12 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

SOAH DOCKET NO. 454-24-_____
TDI ENFORCEMENT FILE NO. 29003

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

EMMA SIMMONS,

Respondent

BEFORE THE STATE OFFICE

ACCEPTED
454-24-03159
10/13/2023 3:25:06 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance (TDI) seeks to deny Emma Simmons' 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, 4101.051; TEX. OCC. CODE §§ 53.021-53.023; 28 TEX. ADMIN. CODE § 1.502; and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

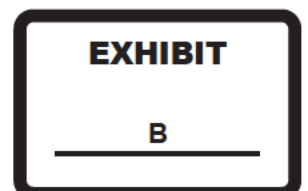
Application

1. On August 18, 2021, Emma Simmons (Simmons) submitted an application for a resident all-lines adjuster license to TDI.
2. The second question on the application reads:

"Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?"

Simmons falsely answered:

"No".



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Original Petition

Emma Simmons

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3. On October 14, 2021 and December 6, 2021, Simmons responded to TDI's second and third requests for statements on the events surrounding her crime. Simmons statements were elusive and inconsistent with court documents related to the crime.
4. On or about November 3, 2021, Simmons responded to TDI's request for a resume indicating that she has been working as an auto claims adjuster in the insurance industry since August 2020.
5. On December 13, 2021, TDI sent a letter to Simmons denying her application based on her criminal history, her failure to disclose that history on her application, and additional concerns related to transparency and current conduct. Simmons made a timely request for a hearing on this matter.

Criminal History

6. On December 9, 2015, Simmons pleaded guilty to theft by taking, a felony offense, in case number 154179 in the Cobb County Superior Court of Georgia. Final judgement was deferred pending the outcome of a 10-year probationary period.
7. The theft in Simmons' guilty plea arose from prior employment where she was entrusted with collecting money from consumers.
8. Simmons is on probation until December 8, 2025.

Legal Allegations

1. Simmons' license application may be denied under 4005.102(1)(A), for committing the following acts in violation of TEX. INS. CODE § 4005.101(b):
 - a. Simmons engaged in fraudulent or dishonest conduct as contemplated by TEX. INS. CODE § 4005.01(b)(5);
 - b. Simmons attempted to obtain a license by misrepresentation as contemplated by TEX. INS. CODE § 4005.01(b)(3);
 - c. Simmons intentionally made a material misstatement in the license application as contemplated by TEX. INS. CODE § 4005.01(b)(2); and

- d. Simmons willfully violated an insurance law of this state as contemplated by TEX. INS. CODE § 4005.01(b)(1), by representing herself as an adjuster without a license, in violation of TEX. INS. CODE § 4101.051.
2. Simmons' license application may be denied under the TEX. OCC. CODE § 53.021 because she has been convicted, for purposes of licensing¹, of an offense that directly relates to the duties and responsibilities of an adjuster, as contemplated by TEX. OCC. CODE § 53.021(a)(1) and (d)(1)(B)(i), and 28 TEX. ADMIN. CODE § 1.502(d)(1).
3. Simmons committed an act that TDI considers to be of prime importance in determining fitness for licensure, as codified in TDI rules, namely:
 - a. an offense for which fraud, dishonesty, or deceit is an essential element, as contemplated under 28 TEX. ADMIN. CODE § 1.502(f)(1), and
 - b. an offense with the essential elements of theft, as contemplated under 28 TEX. ADMIN. CODE § 1.502(f)(4)(K).
4. TDI guidelines, 28 TEX. ADMIN. CODE § 1.502(c)-(e), emphasize that TDI:
 - a. considers it very important that the licensees be honest, trustworthy, and reliable;
 - b. may deny a license if TDI determines that the licensee 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. the factors listed in 28 TEX. ADMIN. CODE § 1.502(h) do not outweigh the serious nature of Simmons' criminal offenses, as 28 TEX. ADMIN. CODE § 1.502(f) contemplates.

¹ A licensing authority may consider a person who pleads guilty under a deferred adjudication program to have been convicted of the offense under certain conditions in accordance with TEX. OCC. CODE § 52.021(d)(1)(B)(i).

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 Emma Simmons' 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,

/s/ Nancy Williams

Nancy Williams
State Bar No. 24058165
Texas Department of Insurance
Enforcement, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 676-6338 (Direct)
(512) 490-1020 (Fax)
nancy.williams@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

2023-8342

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 Nancy Williams
Bar No. 24058175
Enforcementgeneral@tdi.texas.gov
Envelope ID: 80573336
Filing Code Description: Request to Docket
Filing Description: Request To Docket
Status as of 10/13/2023 3:28 PM CST

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	10/13/2023 12:33:27 PM	SENT

Associated Case Party: TDI

Name	BarNumber	Email	TimestampSubmitted	Status
Nancy Williams		Nancy.Williams@tdi.texas.gov	10/13/2023 12:33:27 PM	SENT
Whitney Fraser		Whitney.Fraser@tdi.texas.gov	10/13/2023 12:33:27 PM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	10/13/2023 12:33:27 PM	SENT

Associated Case Party: Emma Simmons

Name	BarNumber	Email	TimestampSubmitted	Status
Emma Simmons		[REDACTED]	10/13/2023 12:33:27 PM	SENT

2023-8342

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 Nancy Williams
Bar No. 24058175
Enforcementgeneral@tdi.texas.gov
Envelope ID: 80618521
Filing Code Description: Notice of Hearing
Filing Description: NOH OP to file
Status as of 10/16/2023 11:17 AM CST

Associated Case Party: TDI

Name	BarNumber	Email	TimestampSubmitted	Status
Whitney Fraser		Whitney.Fraser@tdi.texas.gov	10/16/2023 11:11:41 AM	SENT
Nancy Williams		Nancy.Williams@tdi.texas.gov	10/16/2023 11:11:41 AM	SENT
Chief Clerk		ChiefClerk@tdi.texas.gov	10/16/2023 11:11:41 AM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	10/16/2023 11:11:41 AM	SENT
Leah Gillum		Leah.Gillum@tdi.texas.gov	10/16/2023 11:11:41 AM	SENT
Jodie Delgado		jodie.delgado@tdi.texas.gov	10/16/2023 11:11:41 AM	SENT

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	10/16/2023 11:11:41 AM	SENT

Associated Case Party: EmmaSimmons

Name	BarNumber	Email	TimestampSubmitted	Status
Emma Simmons		[REDACTED]	10/16/2023 11:11:41 AM	SENT

2023-8342



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: 10/16/2023

Shipped From:

Name: MC ENF D MORENO

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 0047 8379 89

Nancy/29003

EXHIBIT

C



Name and Address of Sender

MC ENF D MORENO
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
Signature Confirmation Restricted Delivery

USPS Tracking/Article Number

1. 9214 8901 9403 8333 9512 86

Nancy/29003

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

EMMA SIMMONS
[Redacted]
ARLINGTON, TX 76016

Affix Stamp Here

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

2023-8342

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, SPS Fee. Includes a large 'Handling Charge - if Registered and over \$50,000 in value' entry.

Total Number of Pieces Listed by Sender: 1

Total Number of Pieces Received at Post Office: 1

Postmaster, Per (Name of receiving employee)