

No. 2020-6499

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

Date: 09/30/2020

Subject Considered:

Brett Michael Fuksa

[REDACTED]
Spring, TX 77379-2734

Default Order
SOAH Docket No. 454-20-4387.C
TDI Enforcement File No. 16921

General remarks and official action taken:

This is a default order taken against Brett Michael Fuksa (Respondent) because he violated insurance laws of this state, misappropriated insurance premiums, engaged in fraudulent and dishonest acts or practices, and engaged in the business of insurance without a license. Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance. This order revokes Respondent's license and orders him to cease and desist engaging in the unauthorized business of insurance.

The following findings of fact and conclusions of law are adopted:

Findings of Fact

Failure to Respond to Notice of Hearing

1. On July 29, 2020, 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

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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], Spring, TX 77379-2734. The Notice of Hearing and Original Petition were also sent by electronic mail to an address associated with Respondent.
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, 84.021-84.044, 4001.002, 4005.101, 4005.102, 4051.051, 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. 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.

Order

It is ordered that any licenses held by Brett Michael Fuksa are revoked. He is also ordered to cease and desist engaging in the unauthorized business of insurance under the name Bison Insurance and Financial Services, Inc. A copy of this order will be provided to law enforcement and/or other appropriate administrative agencies for further investigation as may be warranted.

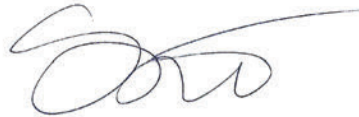
2020-6499

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Kent C. Sullivan
Commissioner of Insurance

By: 
C77A87C8C21B435...
Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

Prepared and reviewed by:



Stephanie Daniels, Staff Attorney
Enforcement Division

Affidavit

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

"My name is Mary Ruiz 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 Brett Michael Fuksa. I have confirmed that:

- a. The last mailing address provided to the department in writing by Brett Michael Fuksa is [REDACTED] Spring, TX 77379-2734.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated July 29, 2020, which were filed with the State Office of Administrative Hearings.
- c. On July 29, 2020, the Notice of Hearing and Original Petition addressed to Brett Michael Fuksa were mailed first-class and certified, return receipt requested, to his last known address and by electronic mail to: [REDACTED]

Copies of the first-class mail log and certified mail log maintained by the Enforcement Division are attached as Exhibit C and Exhibit D, respectively. A copy of the Summary Filing report from EFile confirming delivery by electronic mail is attached as Exhibit E.

DocuSigned by:
Mary Ruiz
2F6F353F080A4A7...

Affiant

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 8/26/2020. This notarial act was an online notarization.

Notary Seal



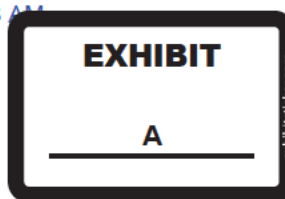
Digital Certificate

DocuSigned by:

Franchetta Alexander

ED54610E15BF40C...

Notary Public State of Texas

2020-6499ACCEPTED
454-20-4387
7/29/2020 11:02 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERKFILED
454-20-4387
7/29/2020 10:58 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK**SOAH DOCKET NO. 454-20-4387.C**
TDI ENFORCEMENT FILE NO. 16921**TEXAS DEPARTMENT OF INSURANCE,****Petitioner****v.****BRETT MICHAEL FUKSA,****Respondent****BEFORE THE STATE OFFICE****OF****ADMINISTRATIVE HEARINGS****NOTICE OF HEARING**

The Texas Department of Insurance seeks to take disciplinary action against you. 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, October 20, 2020, at 9:00 a.m.** The hearing will take place at the State Office of Administrative Hearings, located in the William P. Clements Building, 300 W. 15th Street, 4th Floor, Austin, Texas 78701.

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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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 REVOCATION OF YOUR LICENSE, ISSUANCE OF A CEASE AND DESIST ORDER, IMPOSITION OF ADMINISTRATIVE PENALTIES, AND/OR PAYMENT OF RESTITUTION 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, ISSUANCE OF A CEASE AND DESIST ORDER, IMPOSITION OF ADMINISTRATIVE PENALTIES, AND/OR PAYMENT OF RESTITUTION 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) Stephanie Daniels, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104

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(512) 490-1020 (Fax)

Stephanie.Daniels@tdi.texas.gov

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.

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

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Respectfully Submitted,



Stephanie Daniels

State Bar No. 24107343

Texas Department of Insurance

Enforcement Division, MC110-1A

P.O. Box 149104

Austin, Texas 78714-9104

(512) 676-6334 (Direct)

(512) 490-1020 (Fax)

Stephanie.Daniels@tdi.texas.gov

ATTORNEY FOR THE PETITIONER

TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

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

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CERTIFICATE OF SERVICE

I, Stephanie Daniels, 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 29th day of July, 2020 to:

Brett Michael Fuksa



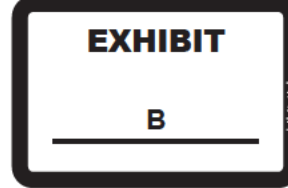
Spring, TX 77379-2734

Respondent Pro Se

Via CM/RRR No.: 9214 8901 9403 8317 4641 08

A handwritten signature in blue ink, appearing to read 'Stephanie Daniels'.

Stephanie Daniels



SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NO. 16921

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

BRETT MICHAEL FUKSA,

ADMINISTRATIVE HEARINGS

Respondent

ORIGINAL PETITION

The Texas Department of Insurance seeks to take disciplinary action against Brett Michael Fuksa. 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, 84.021-84.044, 4001.002, 4005.101, 4005.102, 4051.051, 4054.051, and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

Licensure and Background

1. Brett Michael Fuksa (Brett), individual identification no. 864474, holds a general lines agent license with a property and casualty qualification and a life, accident, and health qualification, originally issued by the Texas Department of Insurance (department) on October 18, 2009.
2. Brett's brother, Blaine Joseph Fuksa (Blaine), individual identification no. 1394486, previously held a general lines agent license with a property and casualty qualification and a life, accident, and health qualification, originally issued by the department on October 14, 2014. Blaine voluntarily surrendered his license to the department on July 22, 2019, to avoid administrative action.

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Brett Michael Fuksa
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3. Both Brett and Blaine were appointed by Farmers Insurance Companies (Farmers) until Farmers cancelled both of their appointments on July 27, 2018.
4. Blaine owned Bison Insurance and Financial Services, Inc. (Bison). Brett worked as an agent for Blaine at Bison.
5. Brett is engaging or has engaged in the business of insurance through Bison. Bison has an active website in which Brett is listed as the only contact. Bison has never been licensed or registered with the department.

Dishonest/Fraudulent Conduct

6. An internal investigation by Farmers revealed Brett processed 64 electronic funds transfer payments using invalid bank account information. Fifty-three were processed for new policies and reinstatements, and 11 were processed to prevent cancellation of policies. These 64 electronic funds transfer payments impacted 28 policies on 18 billing accounts for 14 customers.
7. Nine of the 18 impacted billing accounts were billed to the Bison office address. None of the cancellation or reinstatement correspondence sent by Farmers to these nine billing accounts reached the customers.
8. The 28 impacted policies included 16 fictitious automobile and homeowner's policies issued by Brett. These policies were issued with invalid bank account information. After the policies were cancelled for nonpayment, Brett processed additional payments with invalid bank account information to reinstate them.
9. In one example, an unauthorized policy was issued May 2017 with invalid bank account information. When the policy was canceled for nonpayment, an additional electronic funds transfer payment was processed to reinstate it. Between May 2017 and June 2018, the policy was canceled seven times and each time was reinstated with invalid bank account information. This policy was never requested by the customer and the billing address for this billing account was the Bison office address.
10. One customer, N.P., had an automobile policy for two years with Bison. N.P. canceled the policy and moved to a different agent and insurer. Without N.P.'s knowledge or consent, Brett reinstated the automobile policy and withdrew \$800

from N.P.'s bank account to pay the premium. Farmers refunded the premium to N.P.

11. The invalid electronic funds transfers processed by Brett resulted in a total of \$24,899 in unearned commissions paid to Bison. Farmers recovered the funds via chargebacks to Bison and Brett.

Legal Allegations

1. Brett committed acts for which a license holder may be disciplined under TEX. INS. CODE § 4005.101, as contemplated in TEX. INS. CODE § 4005.102.
2. Brett willfully violated an insurance law of this state, pursuant to TEX. INS. CODE § 4005.101(b)(1).
3. Brett misappropriated, converted to his own use, or illegally withheld money belonging to an insurer or an insured, pursuant to TEX. INS. CODE § 4005.101(b)(4).
4. Brett engaged in fraudulent or dishonest acts or practices, pursuant to TEX. INS. CODE § 4005.101(b)(5).
5. Brett engaged in acts constituting the business of insurance without a license, as defined in TEX. INS. CODE §§ 101.051 and 4001.051, in violation of TEX. INS. CODE §§ 101.102, 4001.101, 4051.051, 4054.051, and 28 TEX. ADMIN. CODE § 19.902.
6. Brett failed to register an assumed name by filing with the department a completed form LDTL together with the required fee, in violation of 28 TEX. ADMIN. CODE § 19.902.

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 the Commissioner of Insurance issue an order:

1. revoking Brett Michael Fuxsa's license;

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Original Petition
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2. directing Brett Michael Fuska to pay an administrative penalty under TEX. INS. CODE §§ 84.021-84.022;
3. directing Brett Michael Fuksa to cease and desist conducting the business of insurance under the name Bison Insurance and Financial Services, Inc., an unlicensed entity; and
4. 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,



Stephanie Daniels
State Bar No. 24107343
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6334 (Direct)
(512) 490-1020 (Fax)
Stephanie.Daniels@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: 07/29/2020
 Shipped From:
 Name: MC 110-1A S BECK
 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.

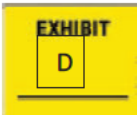
USPS SCAN AT ACCEPTANCE



9275 0901 1935 6200 0023 2545 57



DANIELS - 16921





Firm Mailing Book For Accountable Mail

Name and Address of Sender
 MC 110-1A S. Beck
 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.)

RECEIVED
 JUL 31 2020
TDI - ENFORCEMENT

USPS Tracking/Article Number

1. 9214 8901 9403 8317 4641 08

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

BRETT MICHAEL RUKSA [REDACTED] SPRING TX
 77319-2734

Postage

1.40

(Extra Service) Fee

3.55

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

DAVID S - 16921

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



Postmaster, Paid (Name of receiving employee)

2020-6499

Total Number of Pieces Listed by Sender

1

Total Number of Pieces Received at Post Office

1

Complete in Ink

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



Envelope ID :44920166

Case Number : 454-20-4387

Case Type

Jurisdiction : State Office of Administrative Hearings (SOAH)	Case Category : TDI - Texas Department of Insurance
Case Type : C - Agent Activities & Third Party Administrators	Filer Type : Not Applicable
Payment Account : Fileandservexpress Monthly Billing Texas t dienforcement	Attorney : Stephanie Daniels
Case Number : 454-20-4387	
Client Matter ID : 60851	Date Filed : 7/29/2020 10:58:53 AM

Parties 3

Sending Party	Party Type	Name	Address
	Respondent	Brett Fuksa	[REDACTED] r. , Spring , Texas , 77379
	Intervenor	Chief Clerk	333 Guadalupe Street , MC11 2-2A , Austin , Texas , 78701
<input checked="" type="checkbox"/>	Petitioner	Texas Department of Insuranc e	333 Guadalupe Street , Austi n , Texas , 78701

Documents

Status	Filing Code	Filing Description	Original Document	Converted Document	Stamped Document	Optional Services	Document Category	Document Description	Fees
Accepted (07/29/2020)	Notice of Hearing (Lead Document)	454-20-4387.C TDI v. Brett Michael Fuksa - Notice of Hearing	454-20-4387.C TDI 16921 NO H.pdf		454-20-4387.C TDI 16921 NO H.pdf		Non-Confidential	TDI's Notice of Hearing	\$0.00

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Status	Filing Code	Filing Description	Original Document	Converted Document	Stamped Document	Optional Services	Document Category	Document Description	Fees
	onia Beck								
(07/29/2020)	Notice of Hearing (Lead Document) (Attachments) Note to Clerk: Filed by Sonia Beck	454-20-438 7.C TDI v. Brett Michael Fuksa - Notice of Hearing	454-20-4387.C TDI 16921 OP.pdf				Non-Confidential	TDI's Filed Original Petition	

Responsible for Filing Fees : Texas Department of Insurance

Send Accepted Notifications To: Stephanie.Daniels@tdi.texas.gov, ChiefClerk@tdi.texas.gov

Service Contact 7

EServe	Name	Email Address	Address	Service Contact Fee	Public	Attached To	Status	Date Opened
Yes	Brett Fuksa	[REDACTED] m			No	Brett Fuksa	Sent	7/29/2020 11:30:58 AM
Yes	Catarina Tapia	Catarina.Tapia@tdi.texas.gov			No	Texas Department of Insurance	Sent	Unopened
Yes	Chief Clerk	ChiefClerk@tdi.texas.gov			No	Chief Clerk	Sent	7/30/2020 7:36:57 AM
Yes	Leah Gillum	Leah.Gillum@tdi.texas.gov			No	Texas Department of Insurance	Sent	Unopened
Yes	Stephanie Andrews	Stephanie.Andrews@tdi.texas.gov			No	Texas Department of Insurance	Sent	Unopened
Yes	Stephanie Daniels	Stephanie.Daniels@tdi.texas.gov			No	Texas Department of Insurance	Sent	7/29/2020 11:0:41 AM
Yes	Texas Department of Insurance	Enforcementgeneral@tdi.texas.gov			No	Texas Department of Insurance	Sent	Unopened

Fees Calculation

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Allowance Charge Reason	Amount
Total Provider Tax Fees(\$)	\$0.25
Total Provider Service Fees(\$)	\$2.99
Total Court Service Fees(\$)	\$0.00
Total Service Tax Fees(\$)	\$0.00
Total Filing & Service Fees(\$)	\$0.00
Total Court Filing Fees(\$)	\$0.00
Total Court Party Fees(\$)	\$0.00
Total Court Case Fees(\$)	\$0.00
Convenience Fee(\$)	\$0.09
Total Fees(\$)	\$3.33