

No. 2021-6744

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

Date: 03/25/2021

Subjects Considered:

Nicole Ashley Bell
[REDACTED]
Houston, Texas 77005-3451

Default Order
SOAH Docket No. 454-21-0235
TDI Enforcement File No. 23677

General remarks and official action taken:

The subject of this default order is whether an adjuster all lines license should be issued to Nicole Ashley Bell (Respondent). Respondent did not appear at the hearing on the merits. This order denies Respondent's license application.

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

Findings of Fact

Failure to Appear at Hearing on the Merits

1. On September 28, 2020, the Texas Department of Insurance 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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Nicole Ashley Bell

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Houston, Texas 77005-3451. The Notice of Hearing and Original Petition were also sent by electronic mail.

4. After receiving proper notice of the date, time, and location of the hearing on the merits, Respondent failed to appear for the hearing on December 8, 2020, as shown in the record in SOAH Docket No. 454-21-0235. SOAH then issued Order No. 3, granting staff's motion for continuance to seek a default.
5. On December 21, 2020, staff filed a status report and motion to reset the hearing, detailing the reasons in that motion. On January 4, 2021, SOAH issued Order No. 4, resetting the hearing on the merits for March 4, 2021, at 9:30 a.m.
6. After receiving proper notice of the date, time, and location of the hearing on the merits, Respondent failed to appear for the hearing on March 4, 2021, as shown in the record in SOAH Docket No. 454-21-0235.

Conclusions of Law

1. The commissioner has jurisdiction pursuant to Texas law, including TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, and 4101.051, 28 TEX. ADMIN. CODE § 1.502, TEX. OCC. CODE §§ 53.021 – 53.023, 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 appear in person or by legal representative at the 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 Nicole Ashley Bell'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:



Amanda Atkinson Cagle, 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 Nicole Ashley Bell. I have confirmed that:

- a. The last mailing address provided to the department in writing by Nicole Ashley Bell is: [REDACTED] Houston, Texas 77005-3451.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated September 28, 2020, which were filed with the State Office of Administrative Hearings.
- c. On September 28, 2020, the Notice of Hearing and Original Petition addressed to Nicole Ashley Bell were emailed and were mailed certified, return receipt requested, to her last known address: [REDACTED] Houston, Texas 77005-3451.

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

DocuSigned by:

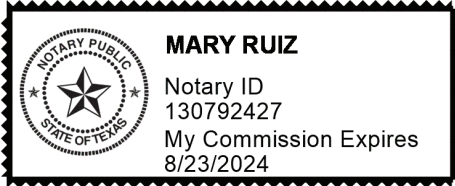
F0BF517D84C04ED... _____
Affiant

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 3/5/2021. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:
Mary Ruiz
795DC4D59167489...
Notary Public State of Texas

2021-6744

ACCEPTED
454-21-0235
9/28/2020 12:36 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

FILED
454-21-0235
9/28/2020 12:33 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

**SOAH DOCKET NO. 454-21-0235
TDI ENFORCEMENT FILE NO. 23677**

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

NICOLE ASHLEY BELL,

ADMINISTRATIVE HEARINGS

Respondent

NOTICE OF HEARING

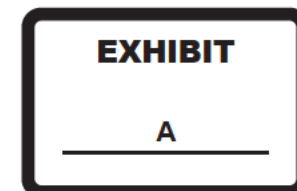
The Texas Department of Insurance seeks to deny your license application. This Notice of Hearing and the Original Petition, which is attached and incorporated for all purposes, states the allegations against you and the relief sought by the Department.

A public hearing will be held before an Administrative Law Judge on **Tuesday, December 8, 2020, 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 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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Nicole Ashley Bell

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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) Amanda Atkinson Cagle, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 490-1020 (Fax)
amanda.cagle@tdi.texas.gov

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Notice of Hearing

Nicole Ashley Bell

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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 "Email Service" 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

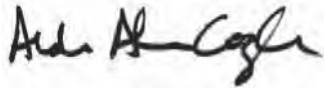
ALL VISITORS TO THE WILLIAM P. CLEMENTS BUILDING WITHOUT AN AGENCY OR DPS ISSUED ID CARD MUST PROVIDE THE BUILDING SECURITY OFFICER WITH THE STATE OFFICE OF ADMINISTRATIVE HEARINGS DOCKET NUMBER AND RECEIVE A VISITOR'S PASS IN ORDER TO BE ALLOWED ACCESS TO THE HEARING ROOM. INDIVIDUALS SHOULD ALLOW ADDITIONAL 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,



Amanda Atkinson Cagle
State Bar No. 00783569
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6342 (Direct)
(512) 490-1020 (Fax)
amanda.cagle@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

cc; Leah Gillum, Deputy Commissioner, Enforcement Division, MC-110-1A
Rachel Cloyd, Litigation Director, Enforcement Division, MC-110-1A
Administrative Review, MC107-1A

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CERTIFICATE OF SERVICE

I, Amanda Atkinson Cagle, 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 by email on this 28th day of September, 2020 to:

Nicole Ashley Bell
[REDACTED]
Houston, Texas 77005-3451

Via CM/RRR No:
9214 8901 9403 8321 8986 61
& Via Email: [REDACTED]



Amanda Atkinson Cagle

SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NO. 23677

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

NICOLE ASHLEY BELL,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to deny Nicole Ashley Bell's (Bell) 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 4101.051, 28 TEX. ADMIN. CODE § 1.502, TEX. OCC. CODE §§ 53.021 – 53.023, and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

License Application

1. On April 30, 2019, Bell applied for an adjuster all lines license to be issued by the department.
2. On January 9, 2020, the department proposed to deny Bell's application based on her criminal history. Bell appealed that decision and made a written request for a hearing.

Material Misstatements in the Application

3. In Bell's application, she falsely answered "No" to both of the following questions:

EXHIBIT

B

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- a. have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor and
- b. have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?

Criminal History

4. *2008 Misdemeanor Battery.* On February 25, 2008, Bell pled nolo contendere to misdemeanor battery of a family member in Case No. 2006D-6956-5 in the State Court of Gwinnett County, Georgia. She was sentenced to 12 months confinement in the Gwinnett County Comprehensive Correctional Complex, to be served subject to conditions of probation.
5. *2009 First Misdemeanor Theft.* On May 8, 2009, Bell pled nolo contendere to misdemeanor theft by shoplifting and misdemeanor giving of false information to a law enforcement officer in Case Number 2009D-00819-3 in the State Court of Gwinnett County, Georgia. She was sentenced to 12 months confinement in the Gwinnett County Comprehensive Correctional Complex, to be served subject to conditions of probation, prohibited from visiting Walmart, and ordered to pay a fine of \$350.
6. *2009 Felony Theft By Deception.* On June 1, 2009, Bell pled guilty to felony theft by deception in Criminal Action Number 2008-B-3900-2 in the Superior Court of Gwinnett County, Georgia.
 - a. Pursuant to the Georgia First Offender Act, Bell was given deferred adjudication for four years probation and ordered to pay \$866.12 restitution.
 - b. On November 6, 2019, Bell was discharged.
7. *2009 Second Misdemeanor Theft.* On September 21, 2009, Bell pled guilty to misdemeanor theft by shoplifting from Macy's in Case Number 2009D-5829-S2 in the State Court of Gwinnett County, Georgia. She was sentenced to 12 months confinement in the Gwinnett County jail, with credit for time served and the remainder to be served on suspension, and ordered to reimburse the county for her attorneys' fees.

Legal Allegations

1. Bell has committed an act for which a license may be denied pursuant to TEX. INS. CODE § 4005.101(b) because she:
 - a. has intentionally made a material misstatement in the license application, as contemplated by TEX. INS. CODE § 4005.101(b)(2);
 - b. has attempted to obtain a license by fraud or misrepresentation, as contemplated by TEX. INS. CODE § 4005.101(b)(3);
 - c. has engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5); and
 - d. has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation, as contemplated by TEX. OCC. CODE § 53.021(a)(1).
2. Bell committed an offense and has engaged in fraudulent or dishonest activity that directly relates to the duties and responsibilities of the licensed occupation, as contemplated in 28 TEX. ADMIN. CODE § 1.502(d) and (f).
3. Bell committed an offense 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).
4. Bell committed an offense for which fraud, dishonesty, or deceit is an essential element as contemplated by 28 TEX. ADMIN. CODE § 1.502(e)(1) and TEX. OCC. CODE §§ 53.021-53.023.
5. Bell has committed an offense with the essential elements of a theft offense, as contemplated by 28 TEX. ADMIN. CODE § 1.502(e)(4)(F).
6. 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 an offense that directly relates to the duties and responsibilities of the licensed occupation; and
- c. considers any offense for which fraud, dishonesty, or deceit is an essential element to be of prime importance when determining fitness for licensure.

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 Nicole Ashley Bell's license application and
- 2. granting any other just and appropriate relief to which the department may be entitled to by law.

Respectfully Submitted,



Amanda Atkinson Cagle
State Bar No. 00783569
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6342 (Direct)
(512) 490-1020 (Fax)
amanda.cagle@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: 09/28/2020

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:

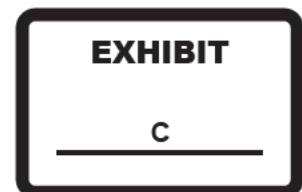
1. Home screen > Mailing/Shipping > More
2. Select Shipment Confirm
3. Scan or enter the barcode/label number from PS Form 5630
4. Confirm the volume count message by selecting Yes or No
5. Select Pay and End Visit to complete transaction

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 0024 3838 29



CAGLE/23677



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

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

2021-6744

- 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 8321 8886 61

CAGLE/23677

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

NICOLE ASHLEY BELL
HOUSTON TX 77005-3451

Postage

1.40

Actual Value if Registered

Insured Value

Due Sender if COD

ASR Fee

ASRD Fee

RD Fee

RR Fee

SC Fee

SCRD Fee

SH Fee

1.70

Adult Signature Required

Adult Signature Restricted Delivery

Restricted Delivery

Return Receipt

Signature Confirmation

Signature Confirmation Restricted Delivery

Special Handling

Handling Charge - if Registered and over \$50,000 in value

(Extra Service) Fee

3.55

Total Number of Pieces Listed by Sender
1
Total Number of Pieces Received at Post Office

Postmaster, Per (Name of receiving employee)

Date Produced: 10/05/2020

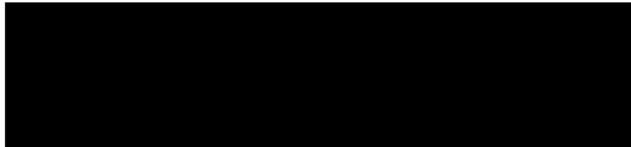
ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8321 8986 61. Our records indicate that this item was delivered on 10/01/2020 at 02:06 p.m. in HOUSTON, TX 77005. The scanned image of the recipient information is provided below.

Signature of Recipient :
(Authorized Agent)

CV17JW 72
CV17JW 42

Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:

51

Customer Reference Number: C2289094.13029661

Return Reference Number: CAGLE/23677