

No. 2022-7603

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

**Date:** 11/08/2022

**Subject Considered:**

Gerardo Gutierrez  
[REDACTED]  
Dallas, Texas 75217-4759

Default Order  
SOAH Docket No. 454-23-00424  
TDI Enforcement File No. 26219

**General remarks and official action taken:**

This is a default order taken against Gerardo Gutierrez (Respondent) because Respondent misappropriated, converted to his own use, and illegally withheld money belonging to an insurer. Respondent also engaged in fraudulent and dishonest acts or practices. Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance. This order revokes Respondent's license.

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

**Findings of Fact**

Failure to Respond to Notice of Hearing

1. On September 13, 2022, 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.

## 2022-7603

Commissioner's Order

Gerardo Gutierrez

SOAH Docket No. 454-23-00424

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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] Dallas, Texas 75217-4759. The Notice of Hearing and Original Petition were also sent via eFile.
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, 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 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.

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Commissioner's Order


Gerardo Gutierrez

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## Order

It is ordered that any licenses held by Gerardo Gutierrez are revoked. 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:  
  
FC5D7EDDFFB4F8...

\_\_\_\_\_  
Cassie Brown  
Commissioner of Insurance

Prepared and reviewed by:



\_\_\_\_\_  
Cassie Tighe, 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 Gerardo Gutierrez. I have confirmed that:

- a. The last mailing address provided to the department in writing by Gerardo Gutierrez is [REDACTED] Dallas, Texas 75217-4759.
- b. The file maintained by Enforcement contains a Notice of Hearing and Original Petition dated September 13, 2022, which were filed with the State Office of Administrative Hearings.
- c. On September 13, 2022, the Notice of Hearing and Original Petition addressed to Gerardo Gutierrez was mailed certified, return receipt requested, to his last known address.

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

DocuSigned by:  
*David Moreno*  
F8C5D5E1120B4AB...

Affiant

# 2022-7603

Commissioner's Order

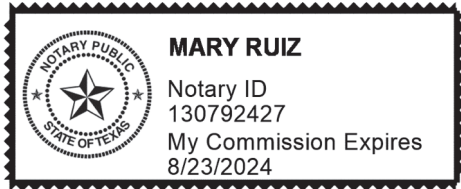
Gerardo Gutierrez

SOAH Docket No. 454-23-00424

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 10/13/2022. This notarial act was an online notarization.

## Notary Seal



## Digital Certificate

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

ACCEPTED **2022-7603**  
454-23-00424  
9/13/2022 3:38:58 pm  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Kevin Garza, CLERK

FILED  
454-23-00424  
9/13/2022 12:31 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Kevin Garza, CLERK

**SOAH DOCKET NO. 454-23-00424**  
**TDI ENFORCEMENT FILE NO. 26219**

**TEXAS DEPARTMENT OF INSURANCE,**

**Petitioner**

**v.**

**GERARDO GUTIERREZ,**

**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 **Thursday, January 26, 2023, 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](http://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

Gerardo Gutierrez

SOAH Docket No. 454-22-00424

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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) *(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](http://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](mailto:chiefclerk@tdi.texas.gov); and
- (3) *(by mail, fax, or email)*  
Cassie Tigue, Staff Attorney

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Notice of Hearing

Gerardo Gutierrez

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Texas Department of Insurance  
Enforcement, MC ENF  
P.O. Box 12030  
Austin, Texas 78711-2030  
(512) 490-1020 (Fax)  
Cassie.Tigue@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](http://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

Gerardo Gutierrez

SOAH Docket No. 454-22-00424

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

Respectfully Submitted,



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Cassie Tighe  
State Bar No. 24099994  
Texas Department of Insurance  
Enforcement, MC ENF  
P.O. Box 12030  
Austin, Texas 78711-2030  
(512) 676-6356 (Direct)  
(512) 490-1020 (Fax)  
Cassie.Tighe@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  
Ginger Loeffler, Litigation Director, Enforcement, MC ENF  
Administrative Review, MC CO-AAL

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Notice of Hearing

Gerardo Gutierrez

SOAH Docket No. 454-22-00424

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### CERTIFICATE OF SERVICE

I, Cassie Tigue, 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 via eFile, on this 13th day of September, 2022 to:

Gerardo Gutierrez

Via CM/RRR No.: 9214 8901 9403 8389 4101 95

[REDACTED]

Dallas, TX 75217-4759

Email [REDACTED]

*Respondent Pro Se*



---

Cassie Tigue

**2022-7603**

SOAH DOCKET No. 454-23-00424

FILED  
454-23-00424  
9/7/2022 1:26 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Carol Hale, CLERK

**SOAH DOCKET NO. 454-\_\_\_\_\_**  
**TDI ENFORCEMENT FILE NO. 26219**

**TEXAS DEPARTMENT OF INSURANCE,**

**Petitioner**

**v.**

**GERARDO GUTIERREZ,**

**Respondent**

**BEFORE THE STATE OFFICE**

ACCEPTED  
454-23-00424  
9/7/2022 3:57:01 pm  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Carol Hale, CLERK

**OF**

**ADMINISTRATIVE HEARINGS**

**ORIGINAL PETITION**

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

**Factual Allegations**

Licensure

1. Gerardo Gutierrez (Gutierrez), individual identification number 1576790, holds a general lines agent license with a life, accident, and health qualification, and a property and casualty qualification, originally issued by the Texas Department of Insurance on April 5, 2016.

Background and Agent Misconduct

2. Gutierrez began working for agent Humberto Gomez (Gomez) in late 2018. Gutierrez was responsible for obtaining customer leads and receipting premium collections. Gutierrez was terminated in July of 2019.

**Exhibit B**

3. On February 11, 2020, Gomez's appointment was canceled by Farmers Insurance after an internal audit revealed approximately \$3,000.00 in cash premium payments were not accounted for.
4. While Gomez fully understood it was his responsibility to account for every premium payment remitted to his agency, he believed one of his former employees, Gutierrez, was responsible for stealing the missing premium payments.
5. Subsequently, one of TDI's investigators contacted Gutierrez and interviewed Gutierrez regarding the allegations. During the interview, Gutierrez admitted to taking money from the agency cash register where cash payments from insureds were kept in the office without the consent of Gomez.

### **Legal Allegations**

1. Gutierrez willfully violated an insurance law of this state as contemplated by TEX. INS. CODE § 4005.101(b)(1).
2. Gutierrez misappropriated, converted to his own use, or illegally withheld money belonging to an insured, insurer, or beneficiary, in violation of TEX. INS. CODE § 4005.101(b)(4).
3. Gutierrez engaged in fraudulent or dishonest acts or practices in violation of TEX. INS. CODE § 4005.101(b)(5).

### **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. revoking Gerardo Gutierrez's license;
2. directing Gerardo Gutierrez to pay an administrative penalty under TEX. INS. CODE §§ 84.021 – 84.022;
3. directing Gerardo Gutierrez to make restitution under TEX. INS. CODE § 82.053; and
4. imposing any other just and appropriate relief to which the department may be entitled to by law, including any combination of the above actions.

**2022-7603**

Original Petition

Gerardo Gutierrez

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Respectfully Submitted,



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Cassie Tigue

State Bar No. 24099994

Texas Department of Insurance

Enforcement, MC ENF

P.O. Box 12030

Austin, Texas 78711-2030

(512) 676-6356 (Direct)

(512) 490-1020 (Fax)

Cassie.Tigue@tdi.texas.gov

ATTORNEY FOR THE PETITIONER

TEXAS DEPARTMENT OF INSURANCE

**2022-7603**

**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 Cassie Tighe

Bar No. 24099994

Enforcementgeneral@tdi.texas.gov

Envelope ID: 68022865

Status as of 9/7/2022 3:58 PM CST

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	9/7/2022 1:26:30 PM	SENT

**2022-7603**

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Mary Ruiz on behalf of Cassie Tigue

Bar No. 24099994

Enforcementgeneral@tdi.texas.gov

Envelope ID: 68022865

Status as of 9/7/2022 3:58 PM CST

Associated Case Party: Texas Department of Insurance

Name	BarNumber	Email	TimestampSubmitted	Status
Cassie Tigue		Cassie.Tigue@tdi.texas.gov	9/7/2022 1:26:30 PM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	9/7/2022 1:26:30 PM	SENT

**2022-7603**

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Mary Ruiz on behalf of Cassie Tighe

Bar No. 24099994

Enforcementgeneral@tdi.texas.gov

Envelope ID: 68022865

Status as of 9/7/2022 3:58 PM CST

Associated Case Party: Gerardo Gutierrez

Name	BarNumber	Email	TimestampSubmitted	Status
Gerardo Gutierrez		[REDACTED]	9/7/2022 1:26:30 PM	SENT



**2022-7603**

**Automated Certificate of eService**

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Mary Ruiz on behalf of Cassie Tigue

Bar No. 24099994

Enforcementgeneral@tdi.texas.gov

Envelope ID: 68202317

Status as of 9/13/2022 3:39 PM CST

Associated Case Party: Texas Department of Insurance

Name	BarNumber	Email	TimestampSubmitted	Status
Cassie Tigue		Cassie.Tigue@tdi.texas.gov	9/13/2022 12:31:15 PM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	9/13/2022 12:31:15 PM	SENT
Ginger Loeffler		Ginger.Loeffler@tdi.texas.gov	9/13/2022 12:31:15 PM	SENT
Leah Gillum		Leah.Gillum@tdi.texas.gov	9/13/2022 12:31:15 PM	SENT
Catarina Tapia		Catarina.Tapia@tdi.texas.gov	9/13/2022 12:31:15 PM	SENT

**2022-7603**

**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 Cassie Tighe

Bar No. 24099994

Enforcementgeneral@tdi.texas.gov

Envelope ID: 68202317

Status as of 9/13/2022 3:39 PM CST

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	9/13/2022 12:31:15 PM	SENT

**2022-7603**

**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 Cassie Tighe

Bar No. 24099994

Enforcementgeneral@tdi.texas.gov

Envelope ID: 68202317

Status as of 9/13/2022 3:39 PM CST

Associated Case Party: Gerardo Gutierrez

Name	BarNumber	Email	TimestampSubmitted	Status
Gerardo Gutierrez		[REDACTED]	9/13/2022 12:31:15 PM	SENT



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: 09/13/2022  
 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 0039 2512 05

**Exhibit C**

tigue/26219



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

<input type="checkbox"/> Adult Signature Required	<input type="checkbox"/> Priority Mail Express
<input type="checkbox"/> Adult Signature Restricted Delivery	<input type="checkbox"/> Registered Mail
<input checked="" type="checkbox"/> Certified Mail	<input type="checkbox"/> Return Receipt for Merchandise
<input type="checkbox"/> Certified Mail Restricted Delivery	<input type="checkbox"/> Signature Confirmation
<input type="checkbox"/> Collect on Delivery (COD)	<input type="checkbox"/> Signature Confirmation Restricted Delivery
<input type="checkbox"/> Insured Mail	
<input type="checkbox"/> Priority Mail	

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

USPS Tracking/Article Number

1. 9214 8901 9403 8389 4101 95

figure/26219

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

GERARDO GUTIERREZ  
 [REDACTED]  
 DALLAS, TX 75217-4759

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
1.68	4.00								2.00			

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

2022-7603

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

Postmaster: Per (Name of receiving employee)