

No. **2020-6478**

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

Date: 09/24/2020

Subject Considered:

Cesar Rene Moreno Leyva
10411 Macmora Rd.
Austin, Texas 78758

Default Order
SOAH Docket No. 454-20-4524.C
TDI Enforcement File No. 25289

General remarks and official action taken:

This is a default order taken against Cesar Rene Moreno Leyva (Respondent) because he collected premiums from consumers and failed to remit the premiums to the insurer and thereby misappropriated or converted the premiums to his own use. Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance. This order revokes Respondent's licenses.

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

Findings of Fact

Failure to Respond to Notice of Hearing

1. On August 14, 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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3. The department sent the Notice of Hearing and Original Petition to Respondent's last known address provided in writing to the department, 10411 Macmora Rd., Austin, Texas 78758. The Notice of Hearing and Original Petition were 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 pursuant to Texas law, including TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4001.102, 4001.105, 4005.101-4005.105, 4054.051 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 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.

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Order

It is ordered that any licenses held by Cesar Rene Moreno Leyva are revoked. A copy of this order will be provided to law enforcement and/or other appropriate administrative agencies for further investigation as may be warranted.

Kent C. Sullivan
Commissioner of Insurance

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

Prepared and reviewed by:


Sydney Moore, 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 Cesar Rene Moreno Leyva. I have confirmed that:

- a. The last mailing address provided to the department in writing by Cesar Rene Moreno Leyva is 10411 Macmora Rd., Austin, Texas 78758.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated August 14, 2020, which were filed with the State Office of Administrative Hearings.
- c. On August 14, 2020, the Notice of Hearing and Original Petition addressed to Cesar Rene Moreno Leyva were mailed certified mail, return receipt requested, to his last known address and by electronic mail.

Copies of the certified mail log maintained by the Enforcement Division are attached as Exhibit C."

DocuSigned by:

David Moreno

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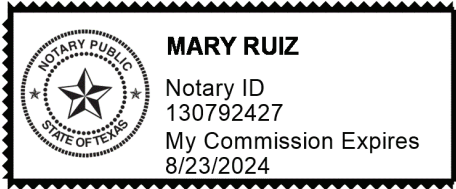
Affiant

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 9/17/2020. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:

Mary Ruiz

795DC4D59167489...

Notary Public State of Texas

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ACCEPTED
454-20-4524
8/14/2020 11:39 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

FILED
454-20-4524
8/14/2020 10:09 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

SOAH DOCKET NO. 454-20-4524.C
TDI ENFORCEMENT FILE NO. 25289

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

CESAR RENE MORENO LEYVA

ADMINISTRATIVE HEARINGS

Respondent

NOTICE OF HEARING

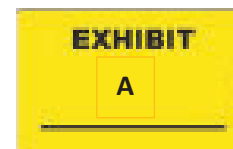
The Texas Department of Insurance seeks to take disciplinary action against you. This Notice of Hearing and the Original Petition, which is attached and incorporated for all purposes, states the allegations against you and the relief sought by the Department.

A public hearing will be held before an Administrative Law Judge on **Thursday, October 22, 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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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) Sydney Moore, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104

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Notice of Hearing

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(512) 490-1020 (Fax)

Sydney.moore@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,



Sydney Moore

State Bar No. 24056052

Texas Department of Insurance

Enforcement Division, MC110-1A

P.O. Box 149104

Austin, Texas 78714-9104

(512) 676-6339 (Direct)

(512) 490-1020 (Fax)

Sydney.moore@tdi.texas.gov

ATTORNEY FOR THE PETITIONER

TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

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

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CERTIFICATE OF SERVICE

I, Sydney Moore, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by electronic mail and certified mail, return receipt requested, on this 14th day of August, 2020 to:

Cesar Rene Moreno Leyva
10411 Macmora Rd.
Austin, Texas 78758
Respondent Pro Se

Via CM/RRR No.: 9214 8901 9403 8318 6494 50

Via email: cesarleyva434@yahoo.com

A handwritten signature in blue ink that reads "Sydney Moore". The signature is written in a cursive style and is positioned above a horizontal line.

Sydney Moore

SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NO. 25289

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

CESAR RENE MORENO LEYVA,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to take disciplinary action against Cesar Rene Moreno Leyva. 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, 4054.051 and 4051.201, and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

1. Cesar Rene Moreno Leyva (Leyva) holds a general lines license, individual identification number 2262735, with life accident, health, and HMO qualification that was issued by the Department on January 23, 2018. Leyva also holds a County Mutual license, individual identification number 2284736, that was issued by the Department on March 29, 2018.
2. Leyva was employed as an agent by Reliable Life Insurance Company from April 16, 2018, until March 20, 2020.
3. Leyva collected premiums totaling \$3,786.96 between February 2020 and April 2020 and then failed to remit the money to Reliable Life Insurance Company.

EXHIBIT

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Original Petition

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4. Reliable Insurance Company terminated the appointment of Leyva for this misconduct.
5. As of July 2, 2020, Leyva still owed Reliable Life Insurance Company \$1,407.96.

Legal Allegations

1. Leyva has 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. Leyva has misappropriated or converted for his own use money belonging to an insured or insurer, as contemplated by TEX. INS. CODE § 4005.101(b)(4).
3. Leyva has engaged in fraudulent or dishonest acts or practices, as contemplated by 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 Leyva's license and
2. imposing any other just and appropriate relief to which the department may be entitled to by law.

Respectfully Submitted,



Sydney Moore
State Bar No. 24056052
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6339 (Direct)

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Original Petition

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(512) 490-1020 (Fax)

Sydney.moore@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: 08/14/2020
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:

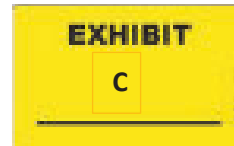
1. Home screen > Mailing/Shipping > More
2. Select Shipment Confirm
3. Scan or enter the barcode/label number from PS Form 5630
4. Confirm the volume count message by selecting Yes or No
5. Select Pay and End Visit to complete transaction

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 0023 5701 90



moore/25289



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

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 8318 6494 50
moore/25289

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

CESAR RENE MORENO LEYVA 10411 MACMORA RD AUSTIN TX 78758

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

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Table with columns: 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, Special Handling

Postmaster, Per (Name of receiving employee)

Total Number of Pieces Listed by Sender: 1

Total Number of Pieces Received at Post Office: 1