

No. 2021-6920

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

Date: 07/15/2021

Subject Considered:

Kimberly Trevino
1201 25th Ave W
Palmetto, FL 34221-3549

Default Order
SOAH Docket No. 454-21-2563.C
TDI Enforcement File No. 27382

General remarks and official action taken:

This is a default order taken against Kimberly Trevino (Respondent) because she failed to notify the department of a felony conviction and because her license was revoked in her resident state. 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 June 8, 2021, 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.
3. The department sent the Notice of Hearing and Original Petition to Respondent's last known address provided in writing to the department, 1201 25th Ave W,

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Palmetto, FL 34221-3549. 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 under Texas law, including TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4001.102, 4001.105, 4005.101-4005.105, 4051.401 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. 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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Order

It is ordered that any licenses held by Kimberly Trevino 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.

Commissioner of Insurance

DocuSigned by:

Doug Slape

C77A87C8C21B435...

By: _____

Doug Slape

Chief Deputy Commissioner

TEX. GOV'T CODE § 601.002

Commissioner's Order No. 2018-5528

Prepared and reviewed by:

Sydney Moore

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 Kimberly Trevino. I have confirmed that:

- a. The last mailing address provided to the department in writing by Kimberly Trevino is 1201 25th Ave W, Palmetto, FL 34221-3549.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated June 8, 2021, which were filed with the State Office of Administrative Hearings.
- c. On June 8, 2021, the Notice of Hearing and Original Petition addressed to Kimberly Trevino were mailed certified, return receipt requested, to her last known address.

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

DocuSigned by:

CA7DDB04B440476... _____

Affiant

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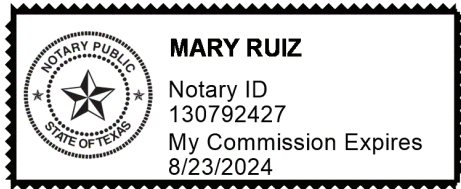
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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 7/1/2021. This notarial act was an online notarization.

Notary Seal



Digital Certificate

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

2021-6920

FILED
454-21-2563
6/8/2021 9:58 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

ACCEPTED
454-21-2563
06/08/2021 11:01 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

SOAH DOCKET NO. 454-21-2563.C
TDI ENFORCEMENT FILE NO. 27382

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

KIMBERLY TREVINO,

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, September 23, 2021, 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, 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
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Notice of Hearing

Kimberly Trevino

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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 12030, MC GC-CCO
Austin, Texas 78711-2030
(512) 490-1064 (Fax)
chiefclerk@tdi.texas.gov; and
- (3) Sydney Moore, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030

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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 hyperlink "Request Service by Email (only for use by self-represented litigants)," 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, MC ENF

P.O. Box 12030

Austin, Texas 78711-2030

(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 ENF
Whitney Fraser, Litigation Director, Enforcement Division, MC ENF
Administrative Review, MC CO-AAL

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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 certified mail, return receipt requested, on this 8th day of June, 2021 to:

Kimberly Trevino
1201 25th Ave W
Palmetto, FL 34221-3549
Respondent Pro Se

Via CM/RRR No.: 9214 8901 9403 8341 7867 40

Via Email: mcottag1@progressive.com



Sydney Moore

SOAH DOCKET NO. 454-454-21-2563
TDI ENFORCEMENT FILE NO. 27382

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

KIMBERLY TREVINO,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to take disciplinary action against Kimberly Trevino. 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, 4001.002, 4005.101, 4005.102, and 4051.401, and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

1. Kimberly Trevino (Trevino), individual identification number 1618637, holds a non-resident personal lines property and casualty license issued by the department on May 25, 2016.
2. On October 21, 2020, in the Circuit Court of the Twelfth Judicial Circuit, in Manatee County, Florida, Trevino was convicted of the felony offense of Driving Under the Influence – Third violation within Ten years of Prior Conviction.
3. Trevino failed to notify the department of the felony conviction.
4. On April 2, 2021, Trevino's insurance license was revoked in her resident state of Florida.

EXHIBIT

B

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Original Petition

Kimberly Trevino

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5. On April 30, 2021, Trevino's insurance license was revoked in the state of Washington due to her license being revoked in her resident state.
6. Trevino failed to notify the department of the administrative actions taken against her by her resident state of Florida and by the state of Washington.

Legal Allegations

1. Trevino has been convicted of a felony as contemplated by TEX. INS. CODE § 4005.101(b)(8).
2. Trevino has failed to notify the department of a felony conviction as required by TEX. INS. CODE § 4001.252(a)(2).
3. Trevino failed to notify the department, on a monthly basis, of administrative actions taken against her by an insurance regulator of another state as required by TEX. INS. CODE § 4001.252(a)(2).
4. Trevino does not hold a license in good standing as an agent in his state of residence, as required by TEX. INS. CODE § 4056.052, and is no longer eligible to hold a non-resident license in Texas.

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 Trevino's license 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.

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Original Petition

Kimberly Trevino

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Respectfully Submitted,

A handwritten signature in blue ink that reads "Sydney Moore". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Sydney Moore

State Bar No. 24056052

Texas Department of Insurance

Enforcement Division, MC ENF

P.O. Box 12030

Austin, Texas 78711-2030

(512) 676-6339 (Direct)

(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: 06/08/2021
Shipped From:
Name: MC 110-1A D MORENO
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 0029 4538 55

EXHIBIT

C

moore/27382



Firm Mailing Book For Accountable Mail

Name and Address of Sender

MC 110-1A D MORENO
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 8341 7867 40

moore/27382

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

KIMBERLY TREVINO 1201.25TH AVE W PALMETTO, FL 34221-3549

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, SH 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)