

No. **2021-6973**

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

**Date: 08/30/2021**

**Subject Considered:**

Mark Suttle Herzog  
PO Box 19673  
Houston, Texas 77224-9673

Default Order  
SOAH Docket No. 454-21-2935.C  
TDI Enforcement File No. 27456

**General remarks and official action taken:**

This is a default order taken against Mark Suttle Herzog (Respondent) because he issued a fictitious certificate of insurance and failed to respond to a department inquiry. 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 July 22, 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, PO Box 19673, Houston,

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Texas 77224-9673. 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, 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 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 Mark Suttle Herzog 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:  
  
By: C77A87C8C21B435...  
Doug Slape  
Chief Deputy Commissioner  
TEX. GOV'T CODE § 601.002  
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 Mark Suttle Herzog. I have confirmed that:

- a. The last mailing address provided to the department in writing by Mark Suttle Herzog is PO Box 19673, Houston, Texas 77224-9673.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated July 22, 2021, which were filed with the State Office of Administrative Hearings.
- c. On July 22, 2021, the Notice of Hearing and Original Petition addressed to Mark Suttle Herzog were mailed certified, return receipt requested, to his last known address.

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

DocuSigned by:

*David Moreno*

DD32289A7E17440...

\_\_\_\_\_  
Affiant

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 8/19/2021. This notarial act was an online notarization.

## Notary Seal



## Digital Certificate

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

FILED **2021-6973**  
454-21-2935  
7/22/2021 12:27 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Carol Hale, CLERK

ACCEPTED  
454-21-2935  
07/22/2021 12:43 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Carol Hale, CLERK

**SOAH DOCKET NO. 454-21-2935.C**  
**TDI ENFORCEMENT FILE NO. 27456**

**TEXAS DEPARTMENT OF INSURANCE,**

**BEFORE THE STATE OFFICE**

**Petitioner**

**v.**

**OF**

**MARK SUTTLE HERZOG,**

**ADMINISTRATIVE HEARINGS**

**Respondent**

**NOTICE OF HEARING**

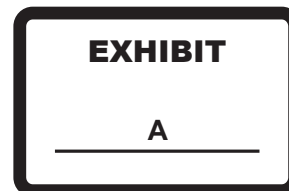
The Texas Department of Insurance seeks to take disciplinary action against you. This Notice of Hearing and the Original Petition, which is attached and incorporated for all purposes, states the allegations against you and the relief sought by the Department.

A public hearing will be held before an Administrative Law Judge on **Tuesday, October 26, 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](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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**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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(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](http://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,



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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 22<sup>nd</sup> day of July, 2021 to:

Mark Suttle Herzog  
PO Box 19673  
Houston, Texas 77224-9673  
*Respondent Pro Se*

Via CM/RRR No.: 9214 8901 9403 8345 2428 39

Via email: mh1@flash.net

  
\_\_\_\_\_  
Sydney Moore

**SOAH DOCKET NO. 454-\_\_\_\_\_**  
**TDI ENFORCEMENT FILE NO. 27456**

**TEXAS DEPARTMENT OF INSURANCE,**

**Petitioner**

**v.**

**MARK SUTTLE HERZOG,**

**Respondent**

**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**ORIGINAL PETITION**

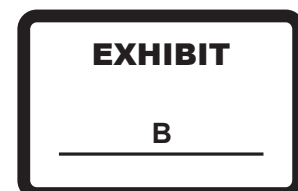
The Texas Department of Insurance seeks to take disciplinary action against Mark Suttle Herzog. In support of this petition, the department makes the following allegations upon information and belief:

**Jurisdiction**

The Commissioner of Insurance has jurisdiction over this matter under TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, 4051.051 and 4054.051, and TEX. GOV'T CODE §§ 2001.051-2001.178.

**Factual Allegations**

1. Mark Suttle Herzog (Herzog), individual identification number 47518, holds a general lines agent license with a life, accident, health, and HMO qualification issued by the department on November 4, 1977, and a property and casualty qualification issued by the department on May 9, 1978.
2. Herzog issued a fictitious certificate of insurance to Ibarra Construction for a policy purporting to be from Hallmark Specialty Insurance Company.
3. Herzog did not respond to an inquiry sent by the department on March 8, 2021.



**Legal Allegations**

1. Herzog engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5).
2. Herzog violated TEX. INS. CODE § 38.001 by failing to respond to a department inquiry in writing not later than the 15<sup>th</sup> day after the date the inquiry was received.

**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 Herzog'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.

Respectfully Submitted,



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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

2021-6973



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: 07/22/2021  
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 0030 4563 88

EXHIBIT

C

moore/27456



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 8345 2428 39

moore/27456

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

MARK SUTTLE HERZOG PO BOX 19673 HOUSTON, TEXAS 77224-9673

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, ST 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)