

No. 2023-8267

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

Date: 10/4/2023

Subject Considered:

Texas Department of Insurance v.
Kamika S. Hayes Graham

SOAH Docket No. 454-23-24177.C

Order on Agreed Motion to Set Aside Default Judgment

General Remarks and Official Action Taken:

The subject of this order is the request by Texas Department of Insurance (TDI) Enforcement staff (Enforcement) that TDI set aside the default judgment previously issued in this matter and that the record be reopened and a new hearing set.

Background

On September 5, 2023, Commissioner's Order No. 2023-8184 was issued. Order No. 2023-8184 revokes any licenses held by Kamika S. Hayes Graham. The order was issued on a default basis because Ms. Graham failed to timely respond to a notice of hearing.

On September 12, 2023, Enforcement filed an Agreed Motion to Set Aside Default Judgment. In the motion, Enforcement says that, while it was not timely, Ms. Graham did file a written response to the notice of hearing. Enforcement received the response before the default order was issued, but, by error, the order was still routed for signature and issued. Enforcement asks that the default order be set aside, in the interest of due process, fairness, and equity, so that Ms. Graham may proceed with the State Office of Administrative Hearing (SOAH) process.

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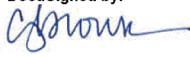
Discussion

Motions to set aside a default order and reopen the record are addressed in TDI's rules at 28 TAC § 1.89. Section 1.89(d) provides that such a motion will be granted if the respondent's "failure to file a written response . . . was neither intentional nor the result of conscious indifference, and that such a mistake was due to a mistake or accident." In this case, Ms. Graham did not fail to file a written response. While the written response was untimely, it was received before Order No. 2023-8184 was issued.

It has been determined that Ms. Graham did not intentionally or by the result of conscious indifference fail to file a written response. Accordingly, the default order will be set aside, and the record will be reopened.

Order

It is ordered that the default judgment ordered by Commissioner's Order No. 2023-8184 is set aside, and the record for SOAH Docket No. 454-23-24177.C is to be reopened, and a new hearing is to be set.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:

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Jessica Barta, General Counsel

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