

No. 2020-6557

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

Date: 11/12/2020

Subject Considered:

Everett L. Lusk

[REDACTED]
Coppell, Texas 75019

Default Order
SOAH Docket No. 454-21-0251
TDI Enforcement File No. 25053

General remarks and official action taken:

The subject of this default order is whether a general lines agent license with a property and casualty qualification should be issued to Everett L. Lusk (Respondent). Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance. This order denies Respondent's license application.

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

Findings of Fact

Failure to Respond to Notice of Hearing

1. On September 29, 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.
3. The department sent the Notice of Hearing and Original Petition to Respondent's last known address provided in writing to the department, [REDACTED]

2020-6557

Commissioner's Order

Everett L. Lusk

SOAH Docket No. 454-21-0251

Page 2 of 5

Coppell, Texas 75019. The Notice of Hearing and Original Petition were also sent by electronic mail and to one additional address associated with Respondent, [REDACTED], DeSoto, Texas 75115.

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, 4005.102, and 4051.051; 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.

2020-6557

Commissioner's Order

Everett L. Lusk

SOAH Docket No. 454-21-0251

Page 3 of 5

Order

It is ordered that Everett L. Lusk's application is denied. 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:



Amanda Atkinson Cagle, Staff Attorney
Enforcement Division

2020-6557

Commissioner's Order
Everett L. Lusk
SOAH Docket No. 454-21-0251
Page 4 of 5

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 Everett L. Lusk. I have confirmed that:

- a. The last mailing address provided to the department in writing by Everett L. Lusk is [REDACTED], Coppell, Texas 75019.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated September 29, 2020, which were filed with the State Office of Administrative Hearings.
- c. On September 29, 2020, the Notice of Hearing and Original Petition addressed to Everett L. Lusk were emailed and also mailed certified, return receipt requested, to his last known address and one additional address, [REDACTED], DeSoto, Texas 75115.

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

DocuSigned by:
David Moreno
96A3D1E80D6A4EF...
Affiant _____

2020-6557

Commissioner's Order

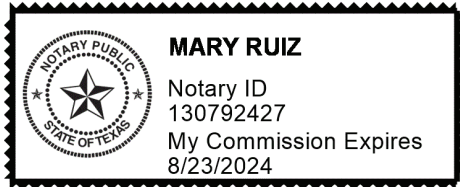
Everett L. Lusk

SOAH Docket No. 454-21-0251

Page 5 of 5

SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 11/6/2020. This notarial act was an online notarization.

Notary Seal



Digital Certificate

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

2020-6557

ACCEPTED
454-21-0251
9/29/2020 1:35 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

FILED
454-21-0251
9/29/2020 1:32 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

**SOAH DOCKET NO. 454-21-0251
TDI ENFORCEMENT FILE NO. 25053**

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

EVERETT L. LUSK,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

NOTICE OF HEARING

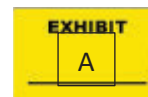
The Texas Department of Insurance seeks to deny your license application. This Notice of Hearing and the Original Petition, which is attached and incorporated for all purposes, states the allegations against you and the relief sought by the Department.

A public hearing will be held before an Administrative Law Judge on **Tuesday, January 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 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.



2020-6557

Notice of Hearing

Everett L. Lusk

SOAH Docket No. 454-21-0251.C

Page 2 of 4

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 DENIAL OF YOUR LICENSE APPLICATION, 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 DENIAL OF YOUR LICENSE APPLICATION, 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) Amanda Atkinson Cagle, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 490-1020 (Fax)
amanda.cagle@tdi.texas.gov

2020-6557

Notice of Hearing

Everett L. Lusk

SOAH Docket No. 454-21-0251.C

Page 3 of 4

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 "Email Service" 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.

Respectfully Submitted,



Amanda Atkinson Cagle

State Bar No. 00783569

Texas Department of Insurance

Enforcement Division, MC110-1A

P.O. Box 149104

Austin, Texas 78714-9104

(512) 676-6342 (Direct)

(512) 490-1020 (Fax)

2020-6557

Notice of Hearing
Everett L. Lusk
SOAH Docket No. 454-21-0251.C
Page 4 of 4

amanda.cagle@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

cc; Leah Gillum, Deputy Commissioner, Enforcement Division, MC-110-1A
Rachel Cloyd, Litigation Director, Enforcement Division, MC-110-1A
Administrative Review, MC107-1A

CERTIFICATE OF SERVICE

I, Amanda Atkinson Cagle, 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 by email on this 29th day of September, 2020 to:

Everett L. Lusk
[REDACTED]
Coppell, Texas 75019

Via CM/RRR No: 9214 8901 9403 8322 0112 98
& Via Email: [REDACTED]

Everett L. Lusk
[REDACTED]
DeSoto, Texas 75115

Via CM/RRR No: 9214 8901 9403 8322 0170 61
& Via Email: [REDACTED]



Amanda Atkinson Cagle

SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NO. 25053

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

EVERETT L. LUSK,

ADMINISTRATIVE HEARINGS

Respondent

ORIGINAL PETITION

The Texas Department of Insurance seeks to deny Everett L. Lusk’s (Lusk) license application. 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, and 4051.051, 28 TEX. ADMIN. CODE § 1.502, TEX. OCC. CODE §§ 53.021 – 53.023, and TEX. GOV’T CODE §§ 2001.051-2001.178.

Factual Allegations

License Application

1. On January 29, 2020, Lusk applied for a general lines agent license with a property and casualty qualification to be issued by the department.
2. On April 3, 2020, the department proposed to deny Lusk’s application based on his criminal history. Lusk appealed that decision and made a written request for a hearing.

Criminal History

3. On April 24, 2019, Lusk pled guilty to the first degree felony offense of aggravated robbery with a firearm in Case No. F-1740613-H in Criminal District Court Number 1 of Dallas County, Texas.



- a. Lusk was placed on deferred adjudication for six years, ordered to pay a \$3,000 fine, and ordered to have no contact with his female victim.
 - b. Lusk had served less than one year of his six year probation when he applied for a license and has not completed it or been discharged.
 - c. Lusk was delinquent in his court-ordered payments when he applied for a license.
4. Also, Lusk has a prior criminal offense. On July 2, 2012, Lusk was indicted for felony criminal mischief, namely kicking and striking the complainant's motor vehicle, causing loss of \$1,500 to \$20,000. On February 18, 2013, Lusk pled guilty to the class A misdemeanor of criminal mischief in Case No. F-1220966-N in the 195th Judicial District Court of Dallas County, Texas.
 - a. Lusk was placed on deferred adjudication for two years, ordered to pay a \$500 fine, and ordered to have no contact with his female victim.
 - b. On February 18, 2015, the Court entered an order dismissing proceedings and granting discharge from community supervision.

Legal Allegations

1. Lusk has committed an act for which a license may be denied pursuant to TEX. INS. CODE § 4005.101(b) because he:
 - a. has engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5); and
 - b. has been convicted of a felony, as contemplated by TEX. INS. CODE § 4005.101(b)(8) and TEX. OCC. CODE § 53.021(a)(1), (a)(2), and (d).
2. Lusk committed an offense and has engaged in fraudulent or dishonest activity that directly relates to the duties and responsibilities of the licensed occupation, as contemplated in 28 TEX. ADMIN. CODE § 1.502(d) and (f) and TEX. OCC. CODE § 53.021(a)(1).
3. Lusk committed an offense TDI considers to be of such serious nature that it is of prime importance in determining fitness for licensure or authorization, as contemplated by 28 TEX. ADMIN. CODE § 1.502(e).

2020-6557

Original Petition

Everett L. Lusk

Page 3 of 4

4. Lusk committed an offense for which fraud, dishonesty, or deceit is an essential element as contemplated by 28 TEX. ADMIN. CODE § 1.502(e)(1) and TEX. OCC. CODE §§ 53.021-53.023.
5. Lusk committed an offense with the essential elements of a robbery offense, as contemplated by 28 TEX. ADMIN. CODE § 1.502(e)(4)(D), specifically TEX. PENAL CODE § 29.03.
6. Under TEX. OCC. CODE § 53.021(a)(2), Lusk's application may be denied because he can be considered to have been convicted of the offense of aggravated robbery with a firearm, which is an offense listed in Article 42A.054(11), Code of Criminal Procedure.
7. Pursuant to TEX. OCC. CODE § 53.021, the commissioner may deny Lusk's application and consider him to have been convicted of both offenses for which he received deferred adjudication because:
 - a. Lusk has not completed the period of supervision for the aggravated robbery with a firearm offense;
 - b. Lusk completed the period of supervision for the criminal mischief offense less than five years before the date he applied for the license; and
 - c. the department determined:
 - i. Lusk continues to pose a continued threat to public safety; or
 - ii. employment of Lusk in the licensed occupation will create a situation in which he has an opportunity to repeat the prohibited conduct.
8. Department guidelines, 28 TEX. ADMIN. CODE § 1.502(c)-(e), emphasize that TDI:
 - a. considers it very important that applicants be honest, trustworthy, and reliable;
 - b. may refuse to issue an original license if the department determines that the applicant has committed an offense that directly relates to the duties and responsibilities of the licensed occupation;
 - c. considers any offense for which fraud, dishonesty, or deceit is an essential element to be of prime importance when determining fitness for licensure; and

- d. considers any offense with the essential elements of a robbery offense to be of prime importance when determining fitness for licensure.

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. denying Everett L Lusk's license application and
2. granting any other just and appropriate relief to which the department may be entitled to by law.

Respectfully Submitted,



Amanda Atkinson Cagle
State Bar No. 00783569
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6342 (Direct)
(512) 490-1020 (Fax)
amanda.cagle@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

2020-6557



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: 09/29/2020

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	2
Total	2

*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 0024 4131 51

cagle/25053





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

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

2020-6557

- 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

Table with columns: USPS Tracking/Article Number, Addressee (Name, Street, City, State, & ZIP Code), Postage, (Extra Service) Fee, Handling Charge, Actual Value, Insured Value, Due Sender if COD, ASR Fee, ASRD Fee, RD Fee, RR Fee, SC Fee, SCRD Fee, SPS Fee. Includes entries for Everett L Lusk in Coppell TX and Desoto TX.

Total Number of Pieces Listed by Sender: 2

Total Number of Pieces Received at Post Office: 2








Postmaster, Per (Name of receiving employee)

2020-6557

Tracking History

Tracking #: 9214890194038322011298

Recipient: EVERETT L LUSK
[REDACTED]
COPPELL TX 75019





Date & Time	Event Type	Event	Event Location
09/29/2020 13:17		PRE-SHIPMENT INFO SENT USPS AWAITS ITEM	AUSTIN,TX, 78701
09/29/2020 15:19		PICKED UP	AUSTIN,TX, 78744
09/29/2020 21:47		PROCESSED THROUGH USPS FACILITY	AUSTIN,TX, 78710
09/30/2020 08:36		DEPART USPS FACILITY	AUSTIN,TX, 78710
09/30/2020 16:39		PROCESSED THROUGH USPS FACILITY	COPPELL,TX, 75099
10/01/2020 04:32		PROCESSED THROUGH USPS FACILITY	COPPELL,TX, 75099
10/01/2020 12:58		DELIVERED FRONT DESK/RECEPTION/MAIL ROOM	COPPELL,TX, 75019

2020-6557

Tracking History

Tracking #: 9214890194038322017061

Recipient: EVERETT L LUSK
[REDACTED]
DESOTO TX 75115

Date & Time	Event Type	Event	Event Location
09/29/2020 13:17		PRE-SHIPMENT INFO SENT USPS AWAITS ITEM	AUSTIN,TX, 78701
09/29/2020 15:19		PICKED UP	AUSTIN,TX, 78744
09/29/2020 21:47		PROCESSED THROUGH USPS FACILITY	AUSTIN,TX, 78710
09/30/2020 08:36		DEPART USPS FACILITY	AUSTIN,TX, 78710
09/30/2020 13:38		PROCESSED THROUGH USPS FACILITY	DALLAS,TX, 75260
10/01/2020 04:45		DEPART USPS FACILITY	DALLAS,TX, 75260
