

No. 2021-6859

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

Date: 06/10/2021

Subject Considered:

Kenneth Shaw, Jr.

[REDACTED]
Killeen, Texas 76543

Default Order
SOAH Docket No. 454-21-2008
TDI Enforcement File No. 22596

General remarks and official action taken:

The subject of this default order is whether a general lines agent license with a life, accident, and health qualification should be issued to Kenneth Shaw, Jr. (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 April 15, 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, [REDACTED]

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Commissioner's Order

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██████ Killeen Texas 76543. The Notice of Hearing and Original Petition were also sent by electronic mail to two additional addresses associated with Respondent.

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, 4005.101, 4005.102, and 4054.051; 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.

Order

It is ordered that Kenneth Shaw, Jr.'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.

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Commissioner's Order

Kenneth Shaw, Jr.

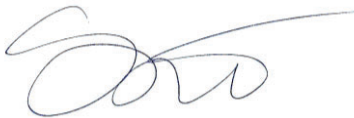
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Commissioner of Insurance

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:



Stephanie Daniels, 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 Kenneth Shaw, Jr. I have confirmed that:

- a. The last mailing address provided to the department in writing by Kenneth Shaw, Jr. is [REDACTED], Killeen, Texas 76543.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated April 15, 2021, which were filed with the State Office of Administrative Hearings.
- c. On April 15, 2021, the Notice of Hearing and Original Petition addressed to Kenneth Shaw, Jr. were mailed certified, return receipt requested, to his last known address.

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

DocuSigned by:

74700D9E691E492...

Affiant

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Commissioner's Order

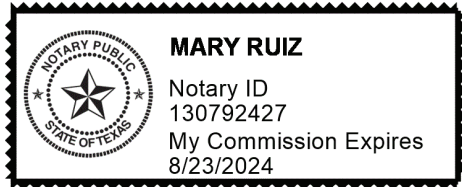
Kenneth Shaw, Jr.

SOAH Docket No. 454-21-2008

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 5/25/2021. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:
Mary Ruiz
795DC4D59167489...

Notary Public State of Texas

2021-6859

FILED
454-21-2008
4/15/2021 3:07 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

EXHIBIT**A**

ACCEPTED
454-21-2008
04/15/2021 3:14 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

SOAH DOCKET NO. 454-21-2008
TDI ENFORCEMENT FILE NO. 22596

TEXAS DEPARTMENT OF INSURANCE,**Petitioner****v.****KENNETH SHAW JR.,****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, August 10, 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.

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Notice of Hearing

Kenneth Shaw Jr.

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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 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) Stephanie Daniels, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 490-1020 (Fax)
Stephanie.Daniels@tdi.texas.gov

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Notice of Hearing

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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.

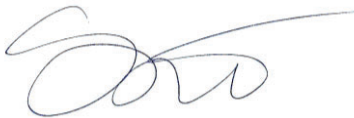
NOTE: A request to receive SOAH-issued documents by email does not change the procedures you must follow to file documents with SOAH. The rules for filing documents and providing copies to all other parties in the case are described in SOAH's Procedural Rules, which are available on SOAH's website. Click 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.

Respectfully Submitted,



Stephanie Daniels
State Bar No. 24107343
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104

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Notice of Hearing

Kenneth Shaw Jr.

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Austin, Texas 78714-9104

(512) 676-6334 (Direct)

(512) 490-1020 (Fax)

Stephanie.Daniels@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

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

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Notice of Hearing

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CERTIFICATE OF SERVICE

I, Stephanie Daniels, 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 15th day of April, 2021 to:

Kenneth Shaw Jr.

[REDACTED]

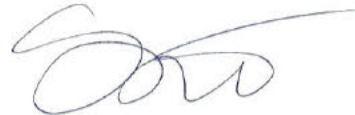
Killeen, TX 76543

Respondent Pro Se

Via CM/RRR No.: 9214890194038337740718

Via Email: [REDACTED]

Via Email: [REDACTED]



Stephanie Daniels



SOAH DOCKET NO. 454-454-21-2008
TDI ENFORCEMENT FILE NO. 22596

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

KENNETH SHAW JR.,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to deny Kenneth Shaw Jr.'s 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 4054.051; TEX. OCC. CODE §§ 53.021-53.023; 28 TEX. ADMIN. CODE § 1.502; and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

License Application

1. Kenneth Shaw Jr. (Shaw) submitted an application for a general lines agent license with a life, accident, and health qualification on July 29, 2019.
2. The department proposed to deny Shaw's application on August 28, 2019, based on his criminal history. Shaw timely appealed the decision and requested a hearing.

Criminal History

3. Shaw committed misdemeanor Possession of Marijuana, Two Ounces or Less, on December 31, 2004. He pled guilty to the same in Cause No. CR-0522883 in County

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Original Petition

Kenneth Shaw

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Court at Law, Hopkins County, Texas, on June 27, 2007, and was sentenced to one hundred twenty days confinement and a fine of \$1,000.

4. Shaw committed misdemeanor Theft of \$500 - \$1,500 on June 3, 2005. He pled guilty to the same in Cause No. CR-0523315 on June 27, 2007, and was sentenced to one hundred twenty days confinement and a fine of \$1,000.
5. Shaw pled guilty to the following state jail felonies on October 5, 2005, in the 8th Judicial District Court of Hopkins County, Texas. He was sentenced to sixteen months confinement for each of the following charges, served concurrently:
 - a. On November 10, 2003, Shaw committed Manual Delivery of a Controlled Substance Less Than One Gram, in Cause No. 0417783.
 - b. On January 14, 2004, Shaw committed Manual Delivery of a Controlled Substance Less Than One Gram, in Cause No. 0417785.
 - c. On January 15, 2004, Shaw committed Manual Delivery of a Controlled Substance Less Than One Gram, in Cause No. 0417784.
 - d. On January 31, 2004, Shaw committed Manual Delivery of a Controlled Substance Less Than One Gram, in Cause No. 0417786.
 - e. On March 5, 2004, Shaw committed Manual Delivery of a Controlled Substance Less Than One Gram, in Cause No. 0417787.
 - f. On December 31, 2004, Shaw Evaded Arrest or Detention with a Vehicle, in Cause No. 0518112.
 - g. On April 18, 2005, Shaw committed Credit Card or Debit Card Abuse, in Cause No. 0518255.
 - h. On May 25, 2005, Shaw committed Credit Card or Debit Card Abuse, in Cause No. 0518258.
 - i. On May 26, 2005, Shaw committed Credit Card or Debit Card Abuse, in Cause No. 0518254.

- j. On May 26, 2005, Shaw committed Credit Card or Debit Card Abuse, in Cause No. 0518256.
 - k. On June 6, 2005, Shaw committed Burglary of a Building, in Cause No. 0518252.
 - l. On June 12, 2005, Shaw Evaded Arrest or Detention with a Vehicle, in Cause No. 0518259.
6. On May 7, 2005, Shaw committed the state jail felony of Credit Card or Debit Card Abuse. On October 5, 2005, he pled guilty to the same in the 8th Judicial District Court of Hopkins County, Texas, in Cause No. 0518257, and was sentenced to two years confinement, probated for five years. On July 17, 2008, Shaw's probation was revoked and he was sentenced to twenty three months confinement due to his arrest for Felon in Possession of a Firearm on July 2, 2008.
7. On January 15, 2010, Shaw was convicted of Felon in Possession of a Firearm and Ammunition by the United States District Court, Eastern District of Texas, in Case No. 4:08-CR-188, and was sentenced to 188 months confinement followed by a five year term of supervised release. On September 27, 2018, the judgment was amended, and Shaw was sentenced to a term of 35 months confinement followed by a three year term of supervised release.

Legal Allegations

- 1. Shaw has committed acts for which a license may be denied pursuant to TEX. INS. CODE § 4005.101, as contemplated in TEX. INS. CODE § 4005.102.
- 2. Shaw engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5).
- 3. Shaw is a convicted felon, as contemplated by 28 TEX. ADMIN. CODE § 1.502(d), TEX. INS. CODE § 4005.101(b)(8), and TEX. OCC. CODE §§ 53.021-53.025.
- 4. Shaw committed offenses which directly relate to the duties and responsibilities of the licensed occupation, as contemplated by TEX. OCC. CODE § 53.021(a)(1) and 28 TEX. ADMIN. CODE § 1.502(d).

5. Shaw committed offenses the department considers to be of such a serious nature that they are of prime importance in determining fitness for licensure, as contemplated by 28 TEX. ADMIN. CODE §§ 1.502(e)(1), (e)(4)(E), (e)(4)(F), and (e)(4)(G).
6. Texas Department of Insurance guidelines, 28 TEX. ADMIN. CODE § 1.502(c)-(e), emphasize the department:
 - 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 a felony or misdemeanor 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 the offenses of credit card or debit card abuse, burglary, theft, and delivery of a controlled substance to be of such a serious nature that they are of prime importance when determining fitness for licensure.
7. Shaw was convicted of felonies involving dishonesty or breach of trust, as specified in 18 U.S.C. § 1033 and requires written consent from the commissioner of insurance to engage or participate in the business of insurance.

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 Kenneth Shaw Jr.'s license application 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,



Stephanie Daniels
State Bar No. 24107343
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6334 (Direct)
(512) 490-1020 (Fax)
Stephanie.Daniels@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

2021-6859

EXHIBIT

C



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: 04/15/2021
Shipped From:
Name: MC 110-1A M RUIZ
Address: 333 GUADALUPE ST
City: AUSTIN
State: TX ZIP+4® 78701

Table with 2 columns: Type of Mail, Volume. Rows include Priority Mail Express, Priority Mail (0), First-Class Package Service, Returns, International, Other (1), and 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 0028 3139 52

S.DANIELS/22596



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 8337 7407 18

S.DANIELS/22596

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

KENNETH SHAW JR
KILLEEN, TX 76543

Affix Stamp Here

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

2021-68519

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, SPS Fee. Includes values like 1.40, 3.60, 1.75, and various fee types.

Total Number of Pieces Listed by Sender: 1

Total Number of Pieces Received at Post Office: 1

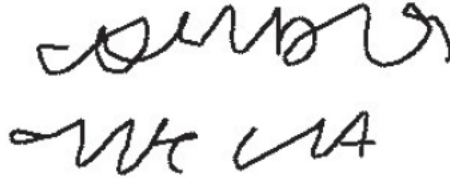
Postmaster, Per (Name of receiving employee)

Date Produced: 04/26/2021

ConnectSuite Inc.:

The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8337 7407 18. Our records indicate that this item was delivered on 04/19/2021 at 02:35 p.m. in KILLEEN, TX 76543. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :

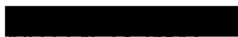


Thank you for selecting the Postal Service for your mailing needs. If you require additional assistance, please contact your local post office or Postal Service representative.

Sincerely,
United States Postal Service

The customer reference number shown below is not validated or endorsed by the United States Postal Service. It is solely for customer use.

This USPS proof of delivery is linked to the customers mail piece information on file as shown below:


KILLEEN, TX 76543

Customer Reference Number: C2639465.15214378
Return Reference Number S.DANIELS/22596