

No. 2022-7151

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

Date: 01/05/2022

Subject Considered:

Kadrian Lucero
[REDACTED]
Horizon City, TX 79928

Default Order
SOAH Docket No. 454-21-2812
TDI Enforcement File No. 27182

General remarks and official action taken:

The subject of this default order is whether a life agent license should be issued to Kadrian Lucero (Respondent). Respondent did not appear at the hearing on the merits. This order denies Respondent's license application.

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

Findings of Fact

Failure to Appear at Hearing on the Merits

1. On July 7, 2021, the Texas Department of Insurance 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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Horizon City, TX 79928. The Notice of Hearing and Original Petition were also sent by electronic mail.

4. After receiving proper notice of the date, time, and location of the hearing on the merits, Respondent failed to appear for the hearing on December 13, 2021, as shown in the record in SOAH Docket No. 454-21-2812. C.

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, 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 appear in person or by legal representative at the 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 Kadrian Lucero's application is denied. A copy of this order will be provided to law enforcement or other appropriate administrative agencies for further investigation as may be warranted.

DocuSigned by:

FC5D7EDDFFBB4F8...

Cassie Brown
Commissioner of Insurance

Prepared and reviewed by:

L. Merida

Latoya Merida, 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 Kadrian Lucero. I have confirmed that:

- a. The last mailing address provided to the department in writing by Kadrian Lucero is [REDACTED] Horizon City, TX 79928.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated July 7, 2021, which were filed with the State Office of Administrative Hearings.
- c. On July 7, 2021, the Notice of Hearing and Original Petition addressed to Kadrian Lucero were mailed certified, return receipt requested, to his last known address.

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

DocuSigned by:

David Moreno

DF0016B467DD416... _____

Affiant

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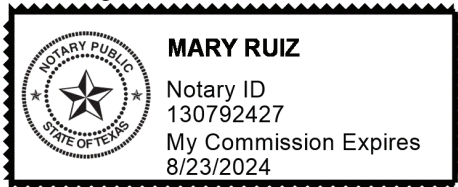
Kadrian Lucero

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 12/16/2021. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:
Mary Ruiz
795DC4D59167489...

Notary Public State of Texas

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FILED
454-21-2812
7/7/2021 12:59 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

ACCEPTED
454-21-2812
07/07/2021 2:56 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

**SOAH DOCKET NO. 454-21-2812
TDI ENFORCEMENT FILE NO. 27182**

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

KADRIAN LUCERO,

ADMINISTRATIVE HEARINGS

Respondent

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 **Monday, October 18, 2021, at 1:00 p.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.

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Notice of Hearing

Kadrian Lucero

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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 12030, MC GC-CCO
Austin, Texas 78711-2030
(512) 490-1064 (Fax)
chiefclerk@tdi.texas.gov; and
- (3) Alexander Bennett, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 490-1020 (Fax)
Alexander.Bennett@tdi.texas.gov

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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.

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Respectfully Submitted,



Alexander Bennett

State Bar No. 24120713

Texas Department of Insurance

Enforcement Division, MC ENF

P.O. Box 12030

Austin, Texas 78711-2030

(512) 676-6329 (Direct)

(512) 490-1020 (Fax)

Alexander.Bennett@tdi.texas.gov

ATTORNEY FOR THE PETITIONER

TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

cc: Leah Gillum, Deputy Commissioner, Enforcement Division, MC-110-1A
Whitney Fraser, Litigation Director, Enforcement Division, MC-110-1A
Administrative Review, MC 107-1A

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CERTIFICATE OF SERVICE

I, Alexander Bennett, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by email and by certified mail, return receipt requested, on this 7th day of July, 2021 to:

Kadrian Lucero

[REDACTED]

Horizon City, TX 79928

Respondent Pro Se

Via CM/RRR No.: 9214 8901 9403 8344 0928 79

Via Email:

[REDACTED]



Alexander Bennett

SOAH DOCKET NO. 454-454-21-2812
TDI ENFORCEMENT FILE NO. 27182

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

KADRIAN LUCERO,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to deny the license application of Kadrian Lucero. 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 4054.301; TEX. GOV'T CODE §§ 2001.051-2001.178; TEX. OCC. CODE §§ 53.021-53.023; and 28 TEX. ADMIN. CODE § 1.502.

Factual Allegations

License Application

1. Kadrian Lucero (Lucero) submitted an application for a life agent license on January 4, 2021.
2. The department proposed to deny Lucero's application on February 17, 2021, based on his criminal history. Lucero timely appealed the decision.

Criminal History

3. On September 14, 2007, in Doña Ana County, New Mexico, Lucero pled guilty to the following felony offenses: robbery (2 counts), aggravated battery (deadly weapon), aggravated assault (deadly weapon), false imprisonment, conspiracy to

EXHIBIT

B

commit false imprisonment, extreme cruelty to animals, burglary of a vehicle, larceny (over \$500), and criminal damage to property (over \$1000). Lucero was sentenced to 2 years 6 months confinement, followed by 2 years parole, followed by 5 years probation.

4. On July 30, 2013, in Doña Ana County, New Mexico, Lucero pled guilty to the felony offense of aggravated battery (great bodily harm) and was sentenced to 3 years probation.

Legal Allegations

1. Lucero 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. Lucero is a convicted felon, as contemplated by 28 TEX. ADMIN. CODE § 1.502(d) and TEX. INS. CODE § 4005.101(b)(8).
3. Lucero's offenses directly relate to the duties and responsibilities of the licensed occupation, as contemplated by TEX. OCC. CODE § 53.021(a)(1), considering the factors contemplated in TEX. OCC. CODE §§ 53.022-53.023.
4. Lucero committed an offense that the department considers to be of such a serious nature that it is of prime importance in determining fitness for licensure, as contemplated by 28 TEX. ADMIN. CODE § 1.502(e)(4)(B), § 1.502(e)(4)(D), § 1.502(e)(4)(E), § 1.502(e)(4)(F).
5. 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; and
 - c. considers the offenses of assault, robbery, burglary, and theft to be of such a serious nature that they are of prime importance when determining fitness for licensure. 28 TEX. ADMIN. CODE § 1.502(e)(4)(B), § 1.502(e)(4)(D) § 1.502(e)(4)(E), and § 1.502(e)(4)(F).

6. Lucero was convicted of a felony 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 Lucero's license application and
2. granting any other just and appropriate relief to which the Department may be entitled to by law.

Respectfully Submitted,



Alexander Bennett
State Bar No. 24120713
Texas Department of Insurance
Enforcement Division, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 676-6329 (Direct)
(512) 490-1020 (Fax)
Alexander.Bennett@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE



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: 07/07/2021
 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 1087 99

bennett/27182



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 Restricted Delivery

USPS Tracking/Article Number

1. 9214 8901 9403 8344 0928 79

bennett/27182

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

KADRIAN LUCERO
[Redacted]
HORIZON CITY, TX 79928

Affix Stamp Here

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

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Table with 14 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 a row for 'bennett/27182' with postage 0.71 and extra service fee 3.60.

Total Number of Pieces Listed by Sender: 1

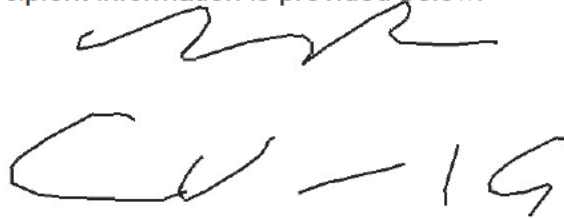
Postmaster, Per (Name of receiving employee)

Date Produced: 07/12/2021

ConnectSuite Inc.:

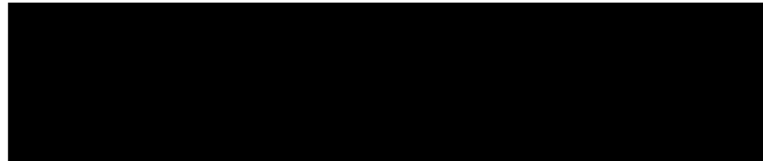
The following is the delivery information for Certified Mail™/RRE item number 9214 8901 9403 8344 0928 79. Our records indicate that this item was delivered on 07/09/2021 at 11:32 a.m. in EL PASO, TX 79928. The scanned image of the recipient information is provided below.

Signature of Recipient :



CV-19

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:

KADRIAN LUCERO
[REDACTED]
HORIZON CITY, TX 79928

Customer Reference Number: C2798344.16103960
Return Reference Number: bennett/27182