

No. 2020-6296

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

Date: MAR 25 2020

Subject Considered:

Carlos Lizardi, Jr
4212 Dolores St
McKinney, TX 75070-2492

Default Order
SOAH Docket No. 454-20-2410.C
TDI Enforcement File No. 17487

General remarks and official action taken:

The subject of this default order is whether an adjuster all lines license should be issued to Carlos Lizardi, 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 February 5, 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, 4212 Dolores St, McKinney, TX 75070-2492. The department sent an additional Notice of Hearing and Original Petition to Respondent's stated temporary address, 179 Darcy Dr, Saylorsburg, PA 18353-8391.
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, 4001.102, 4101.051, and 4005.101-4005.105; 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.

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Commissioner's Order

Carlos Lizardi, Jr.

SOAH Docket No. 454-20-2410.C

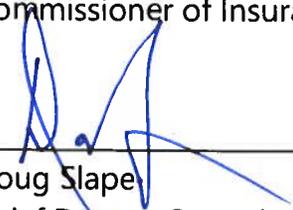
Page 3 of 4

Order

It is ordered that Carlos Lizardi, Jr's application for an adjuster all lines license 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.

Kent C. Sullivan
Commissioner of Insurance

By: _____


Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

Prepared and reviewed by:



Nancy Williams, Staff Attorney
Enforcement Division

Affidavit

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

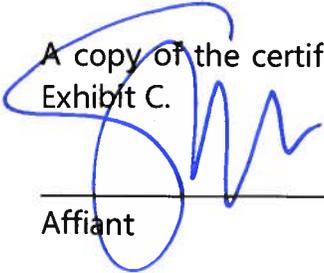
Before me, the undersigned authority, personally appeared Sonia Beck who, being by me duly sworn, deposed as follows:

"My name is Sonia Beck 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 Carlos Lizardi, Jr. I have confirmed that:

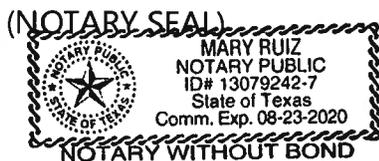
- a. The last mailing address provided to the department in writing by Carlos Lizardi, Jr. is 4212 Dolores St, McKinney, TX 75070-2492.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated February 5, 2020, which were filed with the State Office of Administrative Hearings.
- c. On February 5, 2020, the Notice of Hearing and Original Petition addressed to Carlos Lizardi, Jr. were sent certified mail, return receipt requested, to his last known address and one additional address.

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



Affiant

SWORN TO AND SUBSCRIBED before me on February 27, 2020.





Signature of Notary Public

Mary Ruiz

Printed Name of Notary Public

SOAH DOCKET NO. 454-20-2410.C
TDI ENFORCEMENT FILE NO. 17487

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

CARLOS LIZARDI 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 **Wednesday, June 3, 2020, at 9:00 a.m.** The hearing will take place at the State Office of Administrative Hearings, located in the William P. Clements Building, 300 W. 15th Street, 4th Floor, Austin, Texas, 78701.

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.



PRINTED DATE: 20200603 10:30 AM ACCOUNT NUMBER: 2913 PRINTED DESCRIPTION: SOAH DOCKET NO. 454-20-2410.C TDI ENFORCEMENT FILE NO. 17487 CARLOS LIZARDI JR - RESP

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

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Notice of Hearing
Carlos Lizardi Jr
SOAH Docket No. 454-20-2410.C
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If you have any questions, please contact me at the address or telephone number shown below.

Respectfully Submitted,



Nancy Williams
State Bar No. 24058175
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6338(Direct)
(512) 490-1020 (Fax)
Nancy.Williams@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

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

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Notice of Hearing

Carlos Lizardi Jr

SOAH Docket No. 454-20-2410.C

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CERTIFICATE OF SERVICE

I, Nancy Williams, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by regular, first-class mail and by certified mail, return receipt requested, on this 5th day of February, 2020 to:

Carlos Lizardi Jr
4212 Dolores St
McKinney, TX 75070-2492

Via CM/RRR No.: 9214 8901 9403 8305 6160 38

Carlos Lizardi Jr
179 Darcy Dr
Saylorsburg, PA 18353-8391

Via CM/RRR No.: 9214 8901 9403 8305 6161 51

Respondent Pro Se



Nancy Williams

SOAH DOCKET NO. 454-20-2410.C
TDI ENFORCEMENT FILE NO. 17487

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

CARLOS LIZARDI JR,

ADMINISTRATIVE HEARINGS

Respondent

ORIGINAL PETITION

The Texas Department of Insurance (Department) seeks to deny Carlos Lizardi Jr's (Lizardi) 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, 4005.101, 4005.102, 4101.051; TEX. GOV'T CODE §§ 2001.051-2001.178; 28 TEX. ADMIN. CODE § 1.502; and TEX. OCC. CODE §§ 53.021 – 53.023.

Factual Allegations

Criminal History

1. On September 30, 1999, Lizardi was charged with Rape-2nd Degree, in Pittsford Town Criminal Court, Monroe County, New York in Case No. 01030291.
2. Lizardi entered into a plea agreement in Case No. 01030291, in which he would serve three years concurrent probation sentences, for Sexual Misconduct and Endangering the Welfare of a Child.
3. In a letter to the Department dated April 18, 2018, Lizardi states that he has a New York City conviction for theft, in which he "cooperated with authorities", and had the record sealed.



Uproad Date: 20200204 14:07:33 Account Number: 10 Uproad Description: LIZARDI-PETITION-FINAL

License Application

4. On April 23, 2018, Lizardi submitted an application for an adjuster license.
5. The Department proposed to deny his application on September 20, 2018 based on Lizardi's criminal history.

Texas Criminal Equivalent

6. Lizardi's conviction for Sexual Misconduct in Case No. 01030291 contains the essential elements of Texas Penal Code Section 22.011(a)(1)(A), which criminalizes sexual assault as a felony in the second degree.
7. Lizardi's conviction for Endangering the Welfare of a Child in Case No. 01030291 contains the essential elements of Texas Penal Code Section 22.041(c), which criminalizes Abandoning or Endangering a Child as a state jail felony.

Legal Allegations

1. Lizardi committed a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedures, as contemplated under TEX. OCC. CODE § 53.021(a)(3).
2. Lizardi was convicted of committing criminal acts with the essential elements to constitute felony offenses under Texas law, as contemplated under 28 TEX. ADMIN. CODE § 1.502(e)(4)(B) and TEX. INS. CODE § 4005.101(b)(8).
3. Department guidelines, 28 TEX. ADMIN. CODE § 1.502(d)-(e), emphasize that TDI:
 - a. may refuse to issue an original license if the department determines that the applicant has committed a misdemeanor that directly relates to the duties and responsibilities of the licensed occupation; and
 - b. considers the offenses of sexual misconduct and endangering the welfare of a child, to be of such a serious nature that it is of prime importance when determining fitness for licensure. 28 TEX. ADMIN. CODE § 1.502(e)(4)(B).

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 Lizardi's license application; and
2. granting any other just and appropriate relief to which the Department may be entitled to by law.

Respectfully Submitted,



Nancy Williams
State Bar No. 24058175
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6338 (Direct)
(512) 490-1020 (Fax)
Nancy.Williams@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

2020-6296



Shipment Confirmation
Acceptance Notice

IP

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: 02/05/2020

Shipped From:

Name: S BECK

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.

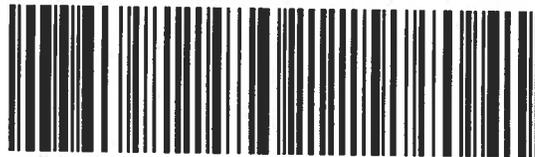
B. USPS Action

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

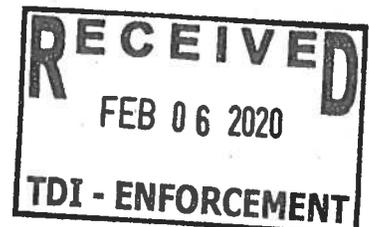
USPS EMPLOYEE: Please scan upon pickup or receipt of mail. Leave form with customer or in customer's mail receptacle.

USPS SCAN AT ACCEPTANCE



9275 0901 1935 6200 0020 0736 56

N. Williams 17487





Firm Mailing Book For Accountable Mail

2020 6296

Name and Address of Sender

S. Beck
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

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

Affix Stamp Here
(If issued as an international certificate of mailing or for additional copies of this receipt).
Postmark with Date of Receipt.

USPS Tracking/Article Number	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	SH Fee
1. 9214 8901 9403 8305 6160 38 N. Williams 17487	1.60	3.55								1.70			
2. 9214 8901 9403 8305 6161 51 N. Williams 17487	1.60	3.55	Handling Charge - if Registered and over \$50,000 in value				Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling



RECEIVED
FEB 06 2020
TDI - ENFORCEMENT

Total Number of Pieces Listed by Sender: 2

Total Number of Pieces Received at Post Office: 2

Postmaster, P. (Name of receiving employee)