

No. 2018 - 5457

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: APR 04 2018

Subject Considered:

RICARDO FRUTOS
12001 Crest Gate Way
El Paso, Texas 79936

DEFAULT ORDER
SOAH DOCKET NO. 454-18-0180.C
TDI ENFORCEMENT FILE NO. 12299

The subject of this order is the pending application for a general lines agent license with a property and casualty qualification for Ricardo Frutos.

FINDINGS OF FACT

Criminal History

1. On May 9, 2013, Frutos was convicted of driving while intoxicated, a misdemeanor, in County Court at Law 2 of El Paso County, Texas in cause number 20130C03761. Frutos was sentenced to 15 months of probation but was later revoked and sentenced to 35 days confinement.
2. On November 27, 2013, Frutos was convicted of delivery of marijuana less than or equal to 5,000 pounds but more than 50 pounds, a felony, in Criminal District Court 1 of El Paso County, Texas in case number 20130D05515. Frutos was sentenced to 10 years probation.

License Application

3. Frutos submitted an application for a general lines agent license with a property and casualty qualification to the department on September 1, 2016.
4. The department proposed to deny Frutos' application on November 14, 2016, based on his criminal history. He appealed that decision and made a written request for a hearing.

Failure to Respond to Notice of Hearing

5. On September 28, 2017, TDI sent a notice of hearing to Frutos' last known address provided in writing to the department, 12001 Crest Gate Way, El Paso, Texas 79936.

6. Frutos failed to file a written response to the notice of hearing within 20 days of the date the notice of hearing was mailed.

Failure to Appear at Hearing on the Merits

7. On December 12, 2017, the Administrative Law Judge issued Order No. 1 which granted TDI's motion for continuance and set a new hearing date for January 18, 2018, at 9 a.m. The Administrative Law Judge mailed a copy of the order to Frutos at the address provided in the notice of hearing.
8. Frutos failed to appear for the hearing on the merits on January 18, 2018.

CONCLUSIONS OF LAW

1. The commissioner has jurisdiction pursuant to TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4001.102, 4001.105, 4005.101, 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. TEX. GOV'T CODE § 2001.056; TEX. INS. CODE § 82.055; and 28 TEX. ADMIN. CODE §§ 1.47, 1.88, and 1.89 give the commissioner authority to dispose of this case informally.
3. Based on 28 TEX. ADMIN. CODE § 19.906, Frutos' last known address is presumed to be 12001 Crest Gate Way, El Paso, Texas 79936.
4. The department sent a notice of hearing to Frutos' last known address as required by 28 TEX. ADMIN. CODE §§ 1.28(c) and 1.88(c), 1 TEX. ADMIN. CODE § 155.401, and TEX. GOV'T CODE Ch. 2001.
5. Frutos received 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, and 1.89.
6. Based on Frutos' failure to file a written response to the notice of hearing and his failure to appear in person or by legal representative at the hearing, TDI is entitled to disposition by default pursuant to 28 TEX. ADMIN. CODE §§ 1.88 and 1.89.
7. The department's allegations in the notice of hearing, set out herein as findings of fact nos. 1-4, are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.
8. Based on Frutos' prior criminal history, he has committed an act for which a license may be denied because he has been convicted of a felony, as contemplated by TEX. INS. CODE § 4005.101(b)(8).
9. 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 a felony or misdemeanor; and
- c. considers the offense of delivery of marijuana to be of such serious nature that it is of prime importance when determining fitness for licensure. 28 TEX. ADMIN. CODE § 1.502(e)(4)(A).

It is ordered that Ricardo Frutos' application for a general lines agent license with a property and casualty qualification is denied.



Kent C. Sullivan
Commissioner of Insurance

AFFIDAVIT

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

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

“My name is Mary Ruiz 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 Ricardo Frutos. I have confirmed that:

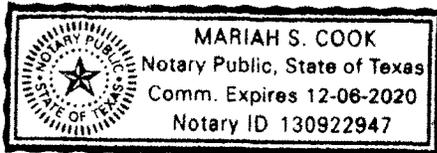
- a. The last mailing address provided to the department by Ricardo Frutos in writing was 12001 Crest Gate Way, El Paso, Texas 79936.
- b. The file maintained by the Enforcement Section of the Legal and Enforcement Division contains a notice of hearing dated September 28, 2017, which was filed with the State Office of Administrative Hearings.
- c. The notice of hearing was addressed to Ricardo Frutos at his last known address and mailed first class and certified, with return receipt requested, on September 28, 2017.

Copies of the first class and certified mail logs maintained by the Enforcement Section are attached as Exhibit A and Exhibit B.”

Mary Ruiz
Affiant

SWORN TO AND SUBSCRIBED before me on February 2, 2018.

(NOTARY SEAL)



Mariah S. Cook
Signature of Notary Public

MARIAH S. COOK
Printed Name of Notary Public

