

No. 2019 - 5835

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

Date: JAN 07 2019

Subject Considered:

Richard Lee Sparks
1704 Remington Circle
Weatherford, Texas 76086

Default Order
SOAH DOCKET NO. 454-18-2023.C
TDI ENFORCEMENT FILE NO. 12732

General remarks and official action taken:

The subject of this order is whether an adjuster all lines license should be issued to Richard Lee Sparks (Respondent).

Findings of Fact

Failure to Respond to Notice of Hearing

1. On February 2, 2018, the Texas Department of Insurance filed a Notice of Hearing, attached as Exhibit A, with the State Office of Administrative Hearings.
2. The department's factual allegations set out in the attached Notice of Hearing are incorporated in this order as findings of fact.
3. The department sent the Notice of Hearing to Respondent's last known address provided in writing to the department, 1704 Remington Circle, Weatherford, Texas 76086. Notice was also sent by electronic mail to Respondent.
4. Respondent 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

5. After receiving proper notice of the date, time and location of the hearing on the merits, Respondent failed to appear for the hearing on July 12, 2018, at 9:00 a.m., as reflected in the record in SOAH Docket No. 454-18-2023.C.
6. At approximately 9:20 a.m. on July 12, 2018, Administrative Law Judge Steven Rivas announced default in the proceedings based on Sparks' failure to appear. Approximately five minutes after ALJ Rivas left the bench, Sparks appeared at the courtroom. ALJ Rivas declined to reconvene the hearing. Sparks filed no additional motions.

Conclusions of Law

1. The commissioner has jurisdiction pursuant to Texas law, including TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4001.102, 4001.105, 4005.101-4005.105, 4005.102, 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 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 and failure to appear in person or by legal representative at the 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 are incorporated in this order and deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.

2019-5835

Commissioner's Order

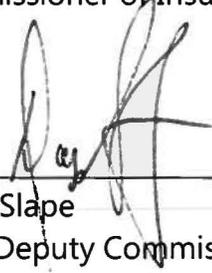
Richard Lee Sparks

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It is ordered that Richard Lee Sparks' application for an adjuster all lines license is denied.

Kent C. Sullivan
Commissioner of Insurance

By: 

Doug Slape

Chief Deputy Commissioner

Commissioner's Order No. 2018-5528

2019 - 5835

DOCKET NO. 454-18-2023.C
TDI CASE NO. 12732



<p>TEXAS DEPT. OF INSURANCE, Petitioner</p> <p>v.</p> <p>RICHARD LEE SPARKS, Respondent</p>	<p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p> <p>§</p>	<p>BEFORE THE STATE OFFICE</p> <p>OF</p> <p>ADMINISTRATIVE HEARINGS</p>
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NOTICE OF HEARING

The Texas Department of Insurance is seeking to deny your license application. Please consider this formal notice that a public hearing will be held before an Administrative Law Judge on Wednesday, March 28, 2018, 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.

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.

The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, 4101.051; 28 TEX. ADMIN. CODE § 1.502, TEX. OCC. CODE §§ 53.021-53.023, and TEX. GOV'T. CODE §§ 2001.051- 2001.178.

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.

IF YOU FAIL TO FILE A WRITTEN RESPONSE, THE SCHEDULED HEARING CAN BE CANCELLED 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.

Pursuant to 28 TEX. ADMIN. CODE § 1.90(e) and 1 TEX. ADMIN. CODE §§ 155.101 and 155.103, 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, MC113-2A
P. O. Box 149104
Austin, Texas 78714-9104
(512) 490-1064 (Fax)
chiefclerk@tdi.texas.gov; and
- (3) Stephanie Maugham Andrews
Staff Attorney
Texas Department of Insurance
Enforcement Section, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104.

The allegations against you are:

Criminal History

1. On March 13, 1995, you were convicted of driving while intoxicated, a misdemeanor, in Tarrant County Criminal Court 8 of Fort Worth, Texas in cause number CAU:570420. You were sentenced to 15 days confinement.
2. On December 27, 2001, you were convicted of Theft of Property Greater Than or Equal to \$20 But Less Than \$500 by Check, a misdemeanor, in County Criminal Court 6 of Fort Worth, Texas in cause number CAU: 0697497001. You were sentenced to 24 months deferred adjudication probation but were later revoked and sentenced to 50 days confinement.
3. On March 21, 2001, you were convicted of Possession of Controlled Substance by Fraud Schedule III/IV, a third degree felony, in the 371st District Court of Fort Worth, Texas in cause number CAU:0776101000. You were sentenced to two years deferred adjudication probation but were later revoked and sentenced to two years confinement.

4. On December 27, 2001, you were convicted of Assault Causes Bodily Injury Family Member, a misdemeanor, in the County Criminal Court 6 of Fort Worth, Texas in cause number CAU:0816100001. You were sentenced to 24 months deferred adjudication probation but were later revoked and sentenced to 50 days confinement.
5. On October 4, 2013, you were convicted of Driving While Intoxicated 2nd, a misdemeanor, in the County Criminal Court 10 of Fort Worth, Texas in cause number CAU:1339137001. You were sentenced to 100 days confinement.
6. On January 26, 2016, you were convicted of Driving While Intoxicated 3rd or More, a felony offense, in the 297th District Court of Fort Worth, Texas in cause number CAU:1425561001. You were sentenced to 84 months probation.
7. You are currently on felony probation until approximately 2023.

License Application

8. You submitted an application for an adjuster all lines license to the department on December 15, 2016.
9. On January 26, 2017, in a statement to the department, you indicated your felony possession of a controlled substance by fraud conviction was based on your contacting pharmacies to check on the status of a called-in prescription from your doctor's office. However, the grand jury indictment states "through the use of a fraudulent oral or telephonically communicated prescription," indicating you submitted a fraudulent prescription for disbursement and contradicting your representation to the department.
10. The department proposed to deny your application on February 15, 2017, based on your criminal history. You appealed that decision and made a written request for a hearing.
11. On or about September 14, 2017, you informed the department that you had obtained an emergency adjuster's license. However, no application for an emergency adjuster's license was ever submitted to the department, and you were terminated from your employment with your listed sponsor based on your criminal history.
12. On or about September 14, 2017, you informed the department that you were traveling to Florida. However, when you left the State of Texas, you merely informed your probation officer you were leaving but did not obtain proper permission ahead of your departure, thereby violating your current probation.
13. On September 26, 2017, you informed the department that you had worked 35 claims in Texas after Hurricane Harvey. You did not hold a license from the department and were not authorized to conduct the business of insurance in Texas.

The commissioner may deny your license application because:

1. You have committed acts for which a license may be denied because you have:
 - a. You have willfully violated an insurance law of this state, as contemplated by TEX. INS. CODE § 4005.101(b)(1).
 - b. Attempted to obtain a license by fraud or misrepresentation, as contemplated by TEX. INS. CODE § 4005.101(b)(3).
 - c. Based on your prior criminal history, you have engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5).
 - d. You have been convicted of a felony, as contemplated by TEX. INS. CODE § 4005.101(b)(8).

2. ~~You committed an offense for which fraud, dishonesty, or deceit is an essential element, as contemplated in 28 TEX. ADMIN. CODE § 1.502(e)(1) and TEX. OCC. CODE §§ 53.021-53.023.~~
3. 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; and
 - c. considers any offense for which fraud, dishonesty or deceit is an essential element to be of prime importance when determining fitness for licensure. 28 TEX. ADMIN. CODE § 1.502(e)(1).
4. You engaged in acts constituting the business of insurance, as contemplated by TEX. INS. CODE § 4001.051(b)(9), without a license, in violation of TEX. INS. CODE § 4101.101.

If one or more of the above allegations is found to be true, the commissioner may enter an order denying your license application and/or taking other administrative action. You have the right to appear at this hearing and to be represented by an attorney. Please address any questions and correspondence to the undersigned counsel at the address or telephone number below.

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.

Sincerely,

2019- 5835

NOTICE OF HEARING
SOAH Docket No. 454-18-2023.C
TDI Case No. 12732
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Stephanie Maugham Andrews
Staff Attorney
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Enforcement Section, MC110-1A
Texas Department of Insurance
P.O. Box 149104
Austin, Texas 78714-9104.
(512) 676-6346 (Phone)
(512) 490-1020 (Fax)
Stephanie.Andrews@tdi.texas.gov

cc: Leah Gillum, Associate Commissioner, Enforcement Section, Legal and Enforcement
Division, MC-110-1A
Ginger R. Loeffler, Director, Licensing Litigation Office, Enforcement Section, Legal
and Enforcement Division, MC-110-1A
Administrative Review, MC107-1A

CERTIFICATE OF SERVICE

I, Stephanie Maugham Andrews, certify that this *Notice of Hearing* was served by U.S.
mail and certified mail, return receipt requested, on this 2nd day of February, 2018 to:

Richard Lee Sparks
1704 Remington Circle
Weatherford, Texas 76086
Respondent Pro Se

Via CM/RRR No.: 9214 8901 9403 8300 0004 1461 09



Stephanie Maugham Andrews

2019-5835



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: 02/02/2018

Shipped From:

Name: MC 110-1A M RUIZ

Address: 333 GUADALIPE 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



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