No. 2021-6960

Official Order of the Texas Commissioner of Insurance

Date: 08/12/2021

Subject Considered:

David Maurice Phillips Jr.

Phoenix, Arizona 85029-1348

Default Order SOAH Docket No. 454-21-2744 TDI Enforcement File No. 26782

General remarks and official action taken:

This is a default order taken against David Maurice Phillips, Jr. (Respondent), because he: willfully violated insurance laws of this state; intentionally made a material misstatement in his licensing application; obtained a license by fraud or misrepresentation; is not actively engaged in soliciting or writing insurance for the public generally; failed to timely notify the department of two separate administrative actions taken against him by regulators of other states; and failed to respond to the department's written inquiry. Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance. This order revokes Respondent's license.

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

Findings of Fact

Failure to Respond to Notice of Hearing

1. On June 28, 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.

Commissioner's Order David Maurice Phillips, Jr. SOAH Docket No. 454-21-2744 Page 2 of 5

- 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, Phoenix, Arizona 85029. The Notice of Hearing and Original Petition were also sent by electronic mail, fax, and to two additional addresses associated with Respondent: Phoenix, Arizona 85018; and Overland Park, Kansas 66211.
- 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, 4005.101, 4005.102, 4051.051, 4054.051, 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.

Commissioner's Order David Maurice Phillips, Jr. SOAH Docket No. 454-21-2744 Page 3 of 5

Order

It is ordered that any licenses held by David Maurice Phillips, Jr., are revoked. A copy of this order will be provided to law enforcement and/or other appropriate administrative agencies for further investigation as may be warranted.

Commissioner of Insurance

-DocuSigned by: By:

Doug Slape Chief Deputy Commissioner TEX. GOV'T CODE § 601.002 Commissioner's Order No. 2018-5528

Prepared and reviewed by:

A Valupe

Anna Kalapach, Staff Attorney Enforcement Division

Commissioner's Order David Maurice Phillips, Jr. SOAH Docket No. 454-21-2744 Page 4 of 5

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 David Maurice Phillips, Jr. I have confirmed that:

- The last mailing address provided to the department in writing by David Maurice Phillips, Jr., is Phoenix, Arizona 85029.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing dated June 28, 2021, and an Original Petition dated June 24, 2021, which were filed with the State Office of Administrative Hearings.
- c. On June 28, 2021, the Notice of Hearing and Original Petition addressed to David Maurice Phillips, Jr., were mailed first-class and certified, return receipt requested, to his last known address and two additional addresses:

Phoenix, Arizona 85018 and Overland Park, Kansas 66211.

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

DocuSigned by: David Moreno 96544ACE8B214E8.

Affiant

Commissioner's Order David Maurice Phillips, Jr. SOAH Docket No. 454-21-2744 Page 5 of 5

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

Notary Seal



Digital Certificate

DocuSigned by: Mary Ruiz -795DC4D59167489.

Notary Public State of Texas

FILED 454-21-2744 6/28/2021 10:16 AM STATE OFFICE OF ADMINISTRATIVE HEARINGS Carol Hale, CLERK

SOAH DOCKET NO. 454-21-2744 TDI ENFORCEMENT FILE NO. 26782

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| 454-21-2744 |
| 06/28/2021 10:22 AM |
| STATE OFFICE OF |
| ADMINISTRATIVE HEARINGS |
| Carol Hale, CLERK |

| TEXAS | DEPARTMEN | NT OF | INSURANCE, | |
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BEFORE THE STATE OFFICE

Petitioner

v.

OF

DAVID MAURICE PHILLIPS, JR.,

Respondent

ADMINISTRATIVE HEARINGS

NOTICE OF HEARING

The Texas Department of Insurance seeks to take disciplinary action against you. 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, December 7, 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 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.

| EXHIBIT | |
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Notice of Hearing David Maurice Phillips, Jr. SOAH Docket No. 454-21-2744 Page 2 of 5

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 REVOCATION OF YOUR LICENSE, 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 REVOCATION OF YOUR LICENSE, 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:

- 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

Notice of Hearing David Maurice Phillips, Jr. SOAH Docket No. 454-21-2744 Page 3 of 5

> Anna Kalapach, Staff Attorney Texas Department of Insurance Enforcement Division, MC ENF P.O. Box 12030 Austin, Texas 78711-2030 (512) 490-1020 (Fax) anna.kalapach@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 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.

Notice of Hearing David Maurice Phillips, Jr. SOAH Docket No. 454-21-2744 Page 4 of 5

If you have any questions, please contact me at the address or telephone number shown below.

Respectfully Submitted,

A Value

Anna Kalapach State Bar No. 24083290 Texas Department of Insurance Enforcement Division, MC ENF P.O. Box 12030 Austin, Texas 78711-2030 (512) 676-6326 (Direct) (512) 490-1020 (Fax) anna.kalapach@tdi.texas.gov

ATTORNEY FOR THE PETITIONER TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

cc: Leah Gillum, Deputy Commissioner, Enforcement Division, MC ENF Rachel Cloyd, Litigation Director, Enforcement Division, MC ENF Administrative Review, MC CO-AAL

Notice of Hearing David Maurice Phillips, Jr. SOAH Docket No. 454-21-2744 Page 5 of 5

CERTIFICATE OF SERVICE

I, Anna Kalapach, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by the following methods, on this 28th day of June, 2021 to:

David Maurice Phillips, Jr.

Phoenix, AZ 85018 *Respondent Pro Se* *Via First Class Mail CM/RRR:* 9214 8901 9403 8343 4501 20 *Via Email to*:

Via Fax to:

Via First Class Mail CM/RRR: 9214 8901 9403 8343 4502 12

Phoenix, AZ 85029

David Maurice Phillips, Jr.

David Maurice Phillips, Jr.

Overland Park, KS 66211

Via First Class Mail CM/RRR: 9214 8901 9403 8343 4503 73

A Value

Anna Kalapach

ACCEPTED 454-21-2744 06/24/2021 3:27 PM STATE OFFICE OF ADMINISTRATIVE HEARINGS Carol Hale, CLERK

SOAH DOCKET NO. 454-_____ TDI ENFORCEMENT FILE NO. 26782

| TEXAS | DEPARTM | ENT OF | INSURANC | E, |
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BEFORE THE STATE OFFICE

454-21-2744

Petitioner

v.

OF

DAVID MAURICE PHILLIPS, JR.,

Respondent

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to take disciplinary action against David Maurice Phillips, Jr. In support of this petition, the department makes the following allegations upon information and belief:

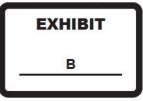
Jurisdiction

The Commissioner of Insurance has jurisdiction over this matter under TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, 4051.051, 4054.051, and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

Licensure

- David Maurice Phillips, Jr. (Phillips), individual identification number 1774379, previously held a general lines agent license with the department. That license was initially issued with a life, accident, health and HMO qualification, and a property and casualty qualification was later also approved. That general lines license expired on May 31, 2019. Phillips failed to renew it in accordance with TEX. INS. CODE § 4003.007.
- 2. On January 5, 2020, Phillips submitted an application to the department for a nonresident general lines agent license with a property and casualty qualification. The department approved the application on the same day, and Phillips presently holds



an active non-resident general lines agent license with a property and casualty qualification, issued by the department on January 5, 2020.

3. Phillips has a Texas non-resident license because he lives in Arizona.

Criminal History

- 4. Phillips was convicted of one misdemeanor in Ohio. Specifically:
 - a. On September 29, 2015, Phillips was found guilty of Possession of a Controlled Substance, a misdemeanor, in case number 2013 CRB 030893, in the Cleveland Municipal Court, Ohio.
 - b. Phillips received a fine of \$55 in case number 2013 CRB 030893.
- 5. In Arizona, Phillips was convicted of two misdemeanors and received two criminal complaints for misdemeanors. Specifically:
 - a. On March 31, 2015, Phillips was charged with Assault Intentionally Causing Physical Injury, Damaging Property between \$250 and \$2,000, and Disorderly Conduct in case number M-0751-CR-2015011023, in the Scottsdale City Court, Arizona. The charges for Assault Intentionally Causing Physical Injury and Damaging Property between \$250 and \$2,000 were dismissed.
 - b. On June 11, 2015, Phillips pled guilty to Disorderly Conduct Fighting, a class one misdemeanor, in case number M-0751-CR-2015011023. Phillips was found guilty and sentenced to one year unsupervised probation and was required to complete a domestic non-violence program.
 - c. Phillips's probation in case number M-0751-CR-2015011023 expired on June 11, 2016. However, as of May 26, 2021, Phillips owed the City of Scottsdale a balance of \$139.44 in relation to this offense.
 - d. On June 5, 2018, Phillips pled guilty to Criminal Damage, a class two misdemeanor, in case number M-0741-5276919, in complaint number 100196128, in the Phoenix Municipal Court, Arizona.

- e. Phillips was convicted in case number M-0741-5276919 and sentenced to 24 months probation on June 5, 2018. The terms of Phillips's probation required that he must not harm his victim and that he complete domestic violence counseling. Phillips completed the required counseling on March 29, 2019.
- f. On September 26, 2018, Phillips received a ticket and complaint for Driving with License Suspended or Revoked, a class one misdemeanor, which became case number M-0751-TR-2018022911, in the Scottsdale City Court, Arizona. The ticket and complaint contained a notice that he must appear for arraignment in Scottsdale City Court, Arizona.
- g. On October 24, 2018, Phillips failed to appear for his arraignment in case number M-0751-TR-2018022911. As a result, on November 7, 2018, the court issued a criminal complaint for violation of promise to appear, a class two misdemeanor, and issued a warrant for Phillips's arrest.

Material Misstatement on License Application and Obtained a License by Misrepresentation

- 6. The application Phillips submitted to the department on January 5, 2020, asked "Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?" The application informed Phillips that he may exclude misdemeanor convictions or pending misdemeanor charges for traffic citation, driving under the influence (DUI), driving while intoxicated (DWI), driving without a license, reckless driving, driving with a suspended or revoked license, or juvenile adjudications.
- 7. In the application, Phillips answered "no" to that question, falsely stating that he had not been convicted of the above-described misdemeanors.

Disciplinary Action in Indiana and Louisiana

8. Phillips held a non-resident insurance producer license with the Indiana Commissioner of Insurance beginning October 11, 2017. The license expired on June 30, 2020.

- 9. On September 17, 2020, the Indiana Commissioner of Insurance issued an Administrative Order and Notice of Nonrenewal of License (Indiana Order) notifying Phillips that his license shall not be renewed.
- 10. The Indiana Order stated that in Phillips's non-resident producer licensure application dated October 11, 2017, he failed to disclose the following criminal convictions:
 - a. A conviction on September 29, 2015, for Possession of a Controlled Substance, a misdemeanor in the State of Ohio; and
 - b. A conviction on June 11, 2015, for Disorderly Conduct, a misdemeanor in the State of Arizona.
- 11. In addition to Phillips's failure to disclose in his application, the Indiana Order states that Phillips failed to timely notify the Indiana Commissioner of Insurance of the following convictions during his licensure:
 - a. A conviction on May 31, 2018, for Driving Under the Influence, a misdemeanor in the State of Arizona; and
 - b. A conviction on December 21, 2018, for Criminal Damage, a misdemeanor in the State of Arizona.
- 12. The Indiana Order states that due to Phillips's failure to disclose his criminal convictions on his initial application for licensure and his failure to timely report his criminal proceedings to the Indiana Commissioner of Insurance, Phillips's license shall not be renewed.
- 13. On March 26, 2021, the Louisiana Department of Insurance issued a Notice of Revocation to Phillips. The Notice of Revocation alleged that the Indiana Commissioner of Insurance denied the renewal of Phillips's non-resident insurance producer license due to undisclosed criminal proceedings. Phillips did not disclose the Indiana Commissioner of Insurance's administrative action to the Louisiana Department of Insurance.
- 14. The Notice of Revocation states that Phillips's non-resident individual insurance producer license is revoked 30 days from the issuance of the Notice of Revocation.

15. Phillips failed to notify the department of the administrative actions taken by other states' insurance regulators, specifically, the Indiana Commissioner of Insurance and the Louisiana Department of Insurance.

Failure to Respond to Inquiry

16. On April 20, 2021, the department emailed and mailed a request for information to Phillips about the above matters, informing him that he must respond no later than 15 days after the receipt of the inquiry. Phillips received the request for information on April 23, 2021, at Phillips's address of record with the department. Phillips did not respond to the department's inquiry.

Not Actively Engaged in Soliciting or Writing Insurance

- 17. On April 12, 2020, Phillips's appointments with Homesite Insurance Company and Homesite Lloyd's of Texas were canceled. These two appointments were Phillips's only remaining appointments with an insurer.
- 18. Phillips presently has no active appointments with any insurer and no intent to engage in the business of insurance. He is therefore not actively engaged in soliciting or writing insurance for the public.

Legal Allegations

- 1. Phillips has committed acts for which a license holder may be disciplined under TEX. INS. CODE §§ 4005.101 and 4005.102, because he:
 - a. has willfully violated insurance laws of this state, in violation of TEX. INS. CODE § 4005.101(b)(1);
 - b. has intentionally made a material misstatement in his licensing application, in violation of Tex. INS. CODE § 4005.101(b)(2);
 - c. has obtained a license by fraud or misrepresentation, in violation of TEX. INS. CODE § 4005.101(b)(3); and

- d. is not actively engaged in soliciting or writing insurance for the public generally, in violation of TEX. INS. CODE § 4005.101(b)(10).
- 2. Phillips failed to notify the department on a monthly basis of an administrative action taken against him by an insurance regulator of other states, specifically Indiana and Louisiana, in violation of TEX. INS. CODE § 4001.252(a)(3).
- 3. Phillips failed to respond to a reasonable request for information made by the department not later than the 15th day after the date of the inquiry, in violation of TEX. INS. CODE § 38.001.

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. revoking David Maurice Phillips, Jr.'s license; and
- 2. imposing any other just and appropriate relief to which the department may be entitled to by law.

Respectfully Submitted,

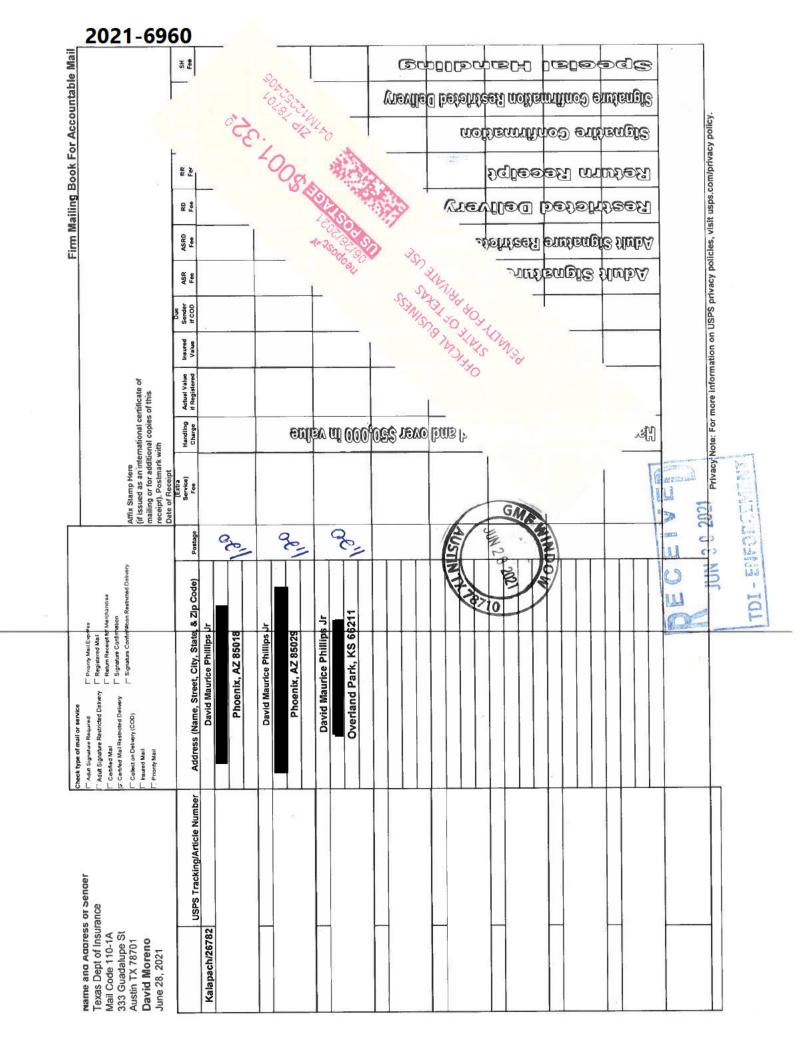
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Anna Kalapach State Bar No. 24083290 Texas Department of Insurance Enforcement Division, MC ENF P.O. Box 12030 Austin, Texas 78711-2030 (512) 676-6326 (Direct) (512) 490-1020 (Fax) anna.kalapach@tdi.texas.gov ATTORNEY FOR THE PETITIONER TEXAS DEPARTMENT OF INSURANCE

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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 Confirmation Acceptance Notice

Shipment Date: 06/28/2021

Shipped From:

Name: MC 110-1A D MORENO

Address: 333 GUADALUPE ST

City: AUSTIN

State: TX ZIP+4® 78701

| Type of Mail | Volume |
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| Priority Mail Express®* | |
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| First-Class Package Service® | |
| Returns | * |
| International* | |
| Other | 3 |
| Total | 3 |

*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
- Select Shipment Confirm Scan or enter the barcode/label number from PS Form 5630 3.
- Confirm the volume count message by selecting Yes or No Select Pay and End Visit to complete transaction 4.

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

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