Official Order of the Texas Commissioner of Insurance

Date: 12/06/2022

Subject Considered:

Jermaine Garrett

Dallas, Texas 75217

Default Order SOAH Docket No. 454-23-02851 TDI Enforcement File No. 28575

General remarks and official action taken:

The subject of this default order is whether an adjuster all lines license should be issued to Jermaine Garrett (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

- On October 19, 2022, 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, ...

Commissioner's Order Jermaine Garrett SOAH Docket No. 454-23-02851 Page 2 of 5

Dallas, Texas 75217. The Notice of Hearing and Original Petition were also sent by electronic mail.

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 under Texas law, including Tex. Ins. Code §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, 4101.051, 4101.053, and 4101.201; 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 file a written response to the Notice of 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.

Commissioner's Order Jermaine Garrett SOAH Docket No. 454-23-02851 Page 3 of 5

Order

It is ordered that Jermaine Garrett'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.

FC5D7EDDFFB84F8...

Cassie Brown

DocuSigned by:

Commissioner of Insurance

Prepared and reviewed by:

Sarah White, Staff Attorney

Enforcement

Commissioner's Order Jermaine Garrett SOAH Docket No. 454-23-02851 Page 4 of 5

Affidavit

STATE OF TEXAS §

S

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 Jermaine Garrett. I have confirmed that:

- a. The last mailing address provided to the department in writing by Jermaine Garrett is ., Dallas, Texas 75217.
- b. The file maintained by Enforcement contains a Notice of Hearing dated October 19, 2022, and Original Petition dated October 11, 2022, which were filed with the State Office of Administrative Hearings.
- c. On October 19, 2022, the Notice of Hearing and Original Petition addressed to Jermaine Garrett were mailed first-class and certified, return receipt requested, to his last known address and electronically.

Copies of the first-class mail log and certified mail log maintained by Enforcement are attached as Exhibit C and Exhibit D, respectively."

DocuSigned by:	
David Moreno	
5055E04D04E2422	
Affiant	

Commissioner's Order Jermaine Garrett SOAH Docket No. 454-23-02851 Page 5 of 5

SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on $\frac{12/2/2022}{}$. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:	
Mary Ruiz	
795DC4D59167489	
Notary Public State of Texas	

STATE OFFICE OF ADMINISTRATIVE HEARINGS RECEIVED ON 10/19/2022 1:32 PM

FILED 454-23-02851 2022-7657 10/19/2022 1:32 PM STATE OFFICE OF ADMINISTRATIVE HEARINGS April Bermea , CLERK

ACCEPTED 454-23-02851 10/19/2022 2:20:36 pm STATE OFFICE OF ADMINISTRATIVE HEARINGS April Bermea , CLERK

SOAH DOCKET NO. 454-23-02851 TDI ENFORCEMENT FILE NO. 28575

TEXAS DEPARTMENT OF INSURANCE,	BEFORE THE STATE OFFICE
Petitioner	
v.	OF
JERMAINE GARRETT,	ADMINISTRATIVE LIFABINGS
Respondent	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 **Tuesday, January 31, 2023, at 9:30 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

Notice of Hearing Jermaine Garrett SOAH Docket No. 454-23-02851 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 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) (by mail, fax, or electronically)
 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);
 www.soah.texas.gov
- (2) (by mail, fax, or email)
 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) (by mail, fax, or email)
 Sarah White, Staff Attorney
 Texas Department of Insurance
 Enforcement, MC ENF

Notice of Hearing Jermaine Garrett SOAH Docket No. 454-23-02851 Page 3 of 5

> P.O. Box 12030 Austin, Texas 78711-2030 (512) 490-1020 (Fax) Sarah.White@tdi.texas.gov

Receiving Documents Electronically and Filing Documents with SOAH

The State Office of Administrative Hearings (SOAH) offers you the ability to electronically receive orders and other documents issued by SOAH by email instead of by mail. If you want to receive SOAH-issued documents by email, follow the instructions on SOAH's website: www.soah.texas.gov.

A request to receive SOAH-issued documents by email does <u>not</u> change the procedures you must follow to file documents or exhibits with SOAH. Instructions on how to file documents and exhibits are on SOAH's website. SOAH's website also includes guidance for representing yourself.

Important Security Notice (for In-Person Hearings ONLY)

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 Jermaine Garrett SOAH Docket No. 454-23-02851 Page 4 of 5

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

Respectfully Submitted,



Sarah White
State Bar No. 24064622
Texas Department of Insurance
Enforcement, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 676-6354 (Direct)
(512) 490-1020 (Fax)
Sarah.white@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

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

Notice of Hearing Jermaine Garrett SOAH Docket No. 454-23-02851 Page 5 of 5

CERTIFICATE OF SERVICE

I, Sarah White, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by regular, first-class mail, by certified mail, return receipt requested and via email, on this 19th day of October, 2022 to:

Jermaine Garrett

Dallas, Texas 75217

Respondent Pro Se

Via CM/RRR No.: 9214 8901 9403 8393 2712 49

Via First Class Mail

Via Email:

Sarah White

SOAH DOCKET No. 454-23-02851

FILED 454-23-02851 10/11/2022 3:27 PM STATE OFFICE OF ADMINISTRATIVE HEARINGS Carol Hale, CLERK

SOAH DOCKET NO. 454-____ TDI ENFORCEMENT FILE NO. 28575

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

ACCEPTED 454-23-02851

retitioner

10/11/2022 4:02:42 pm STATE OFFICE OF

٧.

OF ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

JERMAINE GARRETT,

ADMINISTRATIVE HEARINGS

Respondent

ORIGINAL PETITION

The Texas Department of Insurance (TDI) seeks to deny Jermaine Garrett's 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 under Tex. Ins. Code §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, 4101.051, 4101.053, and 4101.201; 28 Tex. Admin. Code § 1.502; Tex. Occ. Code §§ 53.021-53.023; and Tex. Gov't Code §§ 2001.051-2001.178.

Factual Allegations

License Application

- On April 29, 2021, Jermaine Garrett (Garrett) applied to TDI for an adjuster all lines license.
- 2. On July 7, 2021, TDI proposed to deny Garrett's application based on his criminal history and failure to disclose. Due to a mail delivery error, Garrett did not receive TDI's letter.
- 3. After later learning about the denial, Garrett requested a hearing, and on October 25, 2021, TDI acknowledged Garrett's written request for a hearing to appeal TDI's decision.

EXHIBIT

Original Petition Jermaine Garrett Page 2 of 5

Criminal History

- 4. In his license application, Garrett failed to disclose the following criminal history.
- 5. On December 3, 1999, Garrett was convicted of three felony counts of Financial Transaction Card Fraud and one felony count of Criminal Attempt-Financial Transaction Card Fraud in cause no. 99-RCCR-310, in the Superior Court of Richmond County, Georgia. The court sentenced Garrett to two years probation for two counts of Financial Transaction Card Fraud and one year probation for one count of Criminal Attempt-Financial Transaction Card Fraud. The court further ordered that it be served consecutively and ordered Garrett to pay fines and restitution.
- 6. On September 25, 2007, Garrett was convicted of the misdemeanor offense of Obstruction of a Law Enforcement Officer in cause no. 2006RCCR01575, in the Superior Court of Richmond County, Georgia. The court sentenced Garrett to 12 months confinement, probated and ordered him to pay fines.
- 7. On April 13, 2010, Garrett was convicted of the misdemeanor offense of Theft by Taking in cause no. 2010RCMC05788, in the State Court of Richmond County, Georgia. The court sentenced Garrett to 12 months confinement, probated and ordered him to pay restitution.
- 8. On April 16, 2010, Garrett was convicted of the felony offense of Forgery in the First Degree in cause no. 2009RCCR00258, in the Superior Court of Richmond County, Georgia. The court sentenced Garrett to three years confinement, probated, and ordered him to pay restitution and fines.

Legal Allegations

- 1. Garrett has committed an act for which a license may be denied pursuant to TEX. INS. CODE §§ 4005.101 and 4005.102 because he:
 - a. intentionally made a material misstatement in his license application, as contemplated by Tex. Ins. Code § 4005.101(b)(2);
 - b. attempted to obtain a license by fraud or misrepresentation, as contemplated by Tex. Ins. Code § 4005.101(b)(3);

Original Petition Jermaine Garrett Page 3 of 5

- c. engaged in fraudulent or dishonest acts or practices, as contemplated by Tex. INS. CODE § 4005.101(b)(5); and
- d. has been convicted of a felony, as contemplated by Tex. INS. CODE § 4005.101(b)(8).
- 2. Garrett committed felony and misdemeanor offenses and has engaged in fraudulent or dishonest activity that directly relates to the duties and responsibilities of the licensed occupation, as contemplated in 28 Tex. ADMIN. CODE §§ 1.502(d) and (f) and Tex. Occ. Code §§ 53.021-53.023.
- 3. Garrett committed an offense that TDI considers to be of such serious nature that it is of prime importance in determining fitness for licensure or authorization, as contemplated by 28 Tex. INS. CODE § 1.502(e).
- 4. Garrett committed offenses for which fraud, dishonesty, or deceit is an essential element as contemplated by 28 Tex. INS. CODE § 1.502(e)(1).
- 5. Garrett committed a felony involving moral turpitude or breach of fiduciary duty, as contemplated by 28 Tex. ADMIN. CODE § 1.502(e)(3).
- 6. Garrett committed an offense with the essential elements of a theft offense, as contemplated by 28 Tex. ADMIN. CODE § 1.502(e)(4)(F).
- 7. Pursuant to Tex. Occ. Code § 53.021(a)(1), the commissioner may deny Garrett's application because he has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.
- 8. TDI quidelines, 28 Tex. Admin. Code § 1.502(c)-(e), emphasize that TDI:
 - a. considers it very important that applicants be honest, trustworthy, and reliable;
 - may refuse to issue an original license if TDI determines that the applicant has committed a felony or misdemeanor, or has engaged in fraudulent or dishonest activity that directly relates to the duties and responsibilities of the licensed occupation;

Original Petition Jermaine Garrett Page 4 of 5

- c. considers any offense for which fraud, dishonesty, or deceit is an essential element to be of such a serious nature that it is of prime importance when determining fitness for licensure, pursuant to 28 Tex. ADMIN. CODE § 1.502(e)(1);
- d. considers any felony involving moral turpitude or breach of fiduciary duty to be of such a serious nature that it is of prime importance when determining fitness for licensure, pursuant to 28 Tex. ADMIN. CODE § 1.502(e)(3); and
- e. considers any theft offense to be of such a serious nature that it is of prime importance when determining fitness for licensure, pursuant to 28 Tex. ADMIN. CODE § 1.502(e)(4)(F).
- 9. Garrett has been convicted of a felony involving dishonesty or breach of trust as specified in 18 U.S.C. §1033 and requiring 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 Jermaine Garrett's license application;
- 2. denying consent to allow Jermaine Garrett to engage or participate in the business of insurance under 18 U.S.C. § 1033; and
- 3. imposing any other just and appropriate relief to which the department may be entitled to by law, including any combination of the above actions.

Original Petition Jermaine Garrett Page 5 of 5

Respectfully Submitted,

Saul With

Sarah White
State Bar No. 24064622
Texas Department of Insurance
Enforcement, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 676-6354(Direct)
(512) 490-1020 (Fax)
Sarah.white@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Mary Ruiz on behalf of Sarah White

Bar No. 24064622

Enforcementgeneral@tdi.texas.gov

Envelope ID: 69113311

Status as of 10/11/2022 4:17 PM CST

Associated Case Party: Chief Clerk

Name BarNumber Email TimestampSubmitted Status Chief Clerk ChiefClerk@tdi.texas.gov 10/11/2022 3:27:44 PM SENT

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Mary Ruiz on behalf of Sarah White

Bar No. 24064622

Enforcementgeneral@tdi.texas.gov

Envelope ID: 69113311

Status as of 10/11/2022 4:17 PM CST

Associated Case Party: Texas Department of Insurance

Name	BarNumber	Email	TimestampSubmitted	Status
Sarah White		Sarah.White@tdi.texas.gov	10/11/2022 3:27:44 PM	SENT
Rachel Cloyd		Rachel.Cloyd@tdi.texas.gov	10/11/2022 3:27:44 PM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	10/11/2022 3:27:44 PM	SENT

This automated certificate of service was created by the efiling system. The filer served this document via email generated by the efiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Mary Ruiz on behalf of Sarah White

Bar No. 24064622

Enforcementgeneral@tdi.texas.gov

Envelope ID: 69113311

Status as of 10/11/2022 4:17 PM CST

Associated Case Party: Jermaine Garrett

BarNumber

Jermaine Garrett

Name

Email

TimestampSubmitted

Status

10/11/2022 3:27:44 PM

SENT

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Mary Ruiz on behalf of Sarah White Bar No. 24064622 Enforcementgeneral@tdi.texas.gov Envelope ID: 69372867 Status as of 10/19/2022 2:22 PM CST

Associated Case Party: Texas Department of Insurance

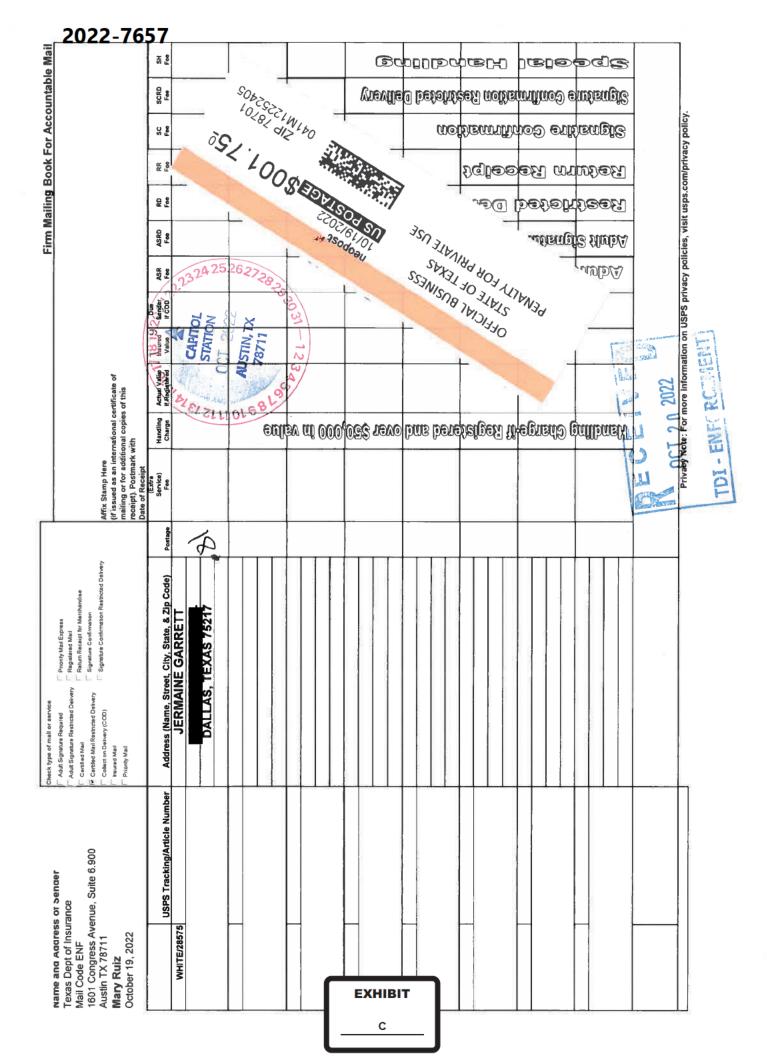
Name	BarNumber	Email	TimestampSubmitted	Status
Rachel Cloyd		Rachel.Cloyd@tdi.texas.gov	10/19/2022 1:32:01 PM	SENT
Sarah White		Sarah.White@tdi.texas.gov	10/19/2022 1:32:01 PM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	10/19/2022 1:32:01 PM	SENT
Leah Gillum		Leah.Gillum@tdi.texas.gov	10/19/2022 1:32:01 PM	SENT
Catarina Tapia		Catarina.Tapia@tdi.texas.gov	10/19/2022 1:32:01 PM	SENT

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	10/19/2022 1:32:01 PM	SENT

Associated Case Party: Jermaine Garrett

Name	BarNumber	Email	TimestampSubmitted	Status
Jermaine Garrett			10/19/2022 1:32:01 PM	SENT





Shipment Confirmation Acceptance Notice

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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 Date: 10/19/2022

Shipped From:

Name: MC ENF M RUIZ

1601 CONGRESS AVENUE SUITE 6 900 Address:

City:_AUSTIN

State: TX ZIP+4® 78711

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Priority Mail®	0
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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:

Home screen > Mailing/Shipping > More
 Select Shipment Confirm

Scan or enter the barcode/label number from PS Form 5630

Confirm the volume count message by selecting Yes or No 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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WHITE/28575

PS Form 5630, September 2016

PSN 7530-08-000-4335

EXHIBIT

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Firm Mailing Book For Accountable Mail

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