## No. 2023-8265

### Official Order of the Texas Commissioner of Insurance

#### Date: 10/3/2023

#### Subject Considered:

Aylin Zendejo

Laredo, Texas 78046

Default Order SOAH Docket No. 454-23-24977 TDI Enforcement File No. 30768

#### General remarks and official action taken:

The subject of this default order is whether a temporary general lines agent license with a property and casualty qualification should be issued to Aylin Zendejo (Respondent). Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance (TDI). 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 August 10, 2023, TDI 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. TDI's factual allegations set out in the attached Notice of Hearing and Original Petition are incorporated in this order as findings of fact.
- 3. TDI sent the Notice of Hearing and Original Petition to Respondent's last known address provided in writing to the department, Laredo, Texas

Commissioner's Order Aylin Zendejo SOAH Docket No. 454-23-24977 Page 2 of 5

> 78046. The Notice of Hearing and Original Petition were also sent by electronic mail and to one additional address associated with Respondent: Brownsville, Texas 78521.

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, 4001.151, 4001.153, 4001.155, 4001.156, 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. 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. TDI 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, TDI is entitled to disposition by default under 28 TEX. ADMIN. CODE §§ 1.88 and 1.89.
- 5. TDI'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 Aylin Zendejo SOAH Docket No. 454-23-24977 Page 3 of 5

#### Order

It is ordered that Aylin Zendejo'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.

DocuSigned by: Anon FC5D7EDDFFBB4F8..

Cassie Brown Commissioner of Insurance

Prepared and reviewed by:

Sarah White, Staff Attorney Enforcement

Commissioner's Order Aylin Zendejo SOAH Docket No. 454-23-24977 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 Aylin Zendejo. I have confirmed that:

- a. The last mailing address provided to the department in writing by Aylin Zendejo is Laredo, Texas 78046.
- b. The file maintained by Enforcement contains a Notice of Hearing dated August 10, 2023, and Original Petition dated August 8, 2023, which were filed together on August 10, 2023, with the State Office of Administrative Hearings.
- c. On August 10, 2023, the Notice of Hearing and Original Petition addressed to Aylin Zendejo were mailed first-class and certified, return receipt requested, to her last known address and one additional address: Texas 78521.

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: Varid Morens -A2D045AE9FF8443... Affiant

Commissioner's Order Aylin Zendejo SOAH Docket No. 454-23-24977 Page 5 of 5

SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on \_\_\_\_\_\_\_\_9/19/2023\_\_\_\_\_\_. This notarial act was an online notarization.

### **Notary Seal**



### **Digital Certificate**

-DocuSigned by: Mary Ruiz

\_\_\_\_\_795DC4D59167489... \_\_\_\_\_\_

Notary Public State of Texas

2023-8265 ACCEPTED 454-23-24977 8/10/2023 1:42:15 pm STATE OFFICE OF ADMINISTRATIVE HEARINGS Kevin Garza, CLERK

### SOAH DOCKET NO. 454-23-24977 **TDI ENFORCEMENT FILE NO. 30768**

FILED 454-23-24977 8/10/2023 1:40 PM STATE OFFICE OF ADMINISTRATIVE HEARINGS Kevin Garza, CLERK

TEXAS DEPARTMENT OF INSURANCE,	
Petitioner	
v.	
AYLIN ZENDEJO	
Respondent	

#### **BEFORE THE STATE OFFICE**

OF

ADMINISTRATIVE HEARINGS

### NOTICE OF HEARING

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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**, November 7, 2023, 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.

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Notice of Hearing Aylin Zendejo SOAH Docket No. 454-23-24977 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
- (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 Aylin Zendejo SOAH Docket No. 454-23-24977 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 Aylin Zendejo SOAH Docket No. 454-23-24977 Page 4 of 5

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

Respectfully Submitted,

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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 Aylin Zendejo SOAH Docket No. 454-23-24977 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 and by certified mail, return receipt requested, on this 10<sup>th</sup> day of August, 2023 to:

Aylin Zendejo

Laredo, Texas 78046

Brownsville, Texas 78521 Respondent Pro Se *Via CM/RRR No.:* 9214 8901 9403 8325 9051 29 *Via First Class Mail* 

Via Email:

Via CM/RRR No.: 9214 8901 9403 8325 9050 37 Via First Class Mail

4 CUL

Sarah White

SOAH Docket No. 454-23-24977

FILED 454-23-24977 8/3/2023 10:20 AM STATE OFFICE OF ADMINISTRATIVE HEARINGS April Bermea, CLERK

SOAH DOCKET NO. 454-\_\_\_\_\_ TDI ENFORCEMENT FILE NO. 30768 ACCEPTED 454-23-24977 8/3/2023 10:47:06 am STATE OFFICE OF ADMINISTRATIVE HEARINGS April Bermea, CLERK

<b>TEXAS DEPARTMENT</b>	OF INSURANCE,
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#### **BEFORE THE STATE OFFICE**

Petitioner

v.

**AYLIN ZENDEJO,** 

**ADMINISTRATIVE HEARINGS** 

OF

Respondent

### **ORIGINAL PETITION**

The Texas Department of Insurance seeks to deny Aylin Zendejo'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, 4001.151, 4001.153, 4001.155, 4001.156, 4005.101, 4005.102, and 4051.051; 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

- 1. On August 10, 2022, Aylin Zendejo (Zendejo) applied for a temporary general lines agent license with a property and casualty qualification to be issued by the Texas Department of Insurance (TDI).
- 2. On September 23, 2022, TDI proposed to deny Zendejo's application based on her criminal history. Zendejo made a written request for a hearing to appeal that decision.

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Page 2 of 4

#### Criminal History

- 3. Zendejo failed to disclose the following criminal history in her license application.
- 4. On December 5, 2019, Zendejo was convicted of the federal felony of false, fictitious, and fraudulent statements to a federal agency or agent in case no. 5:19CR00591-001 in the United States District Court, Southern District of Texas, Laredo. The court sentenced Zendejo to three years probation.
- 5. Zendejo submitted her license application to TDI while she was still on probation.

#### Legal Allegations

- 1. Zendejo has committed acts for which a license holder may be disciplined, and a license may be denied under TEX. INS. CODE § 4005.101, because she:
  - a. intentionally made a material misstatement in her license application by failing to disclose her criminal history 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);
  - c. has 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. Zendejo committed a felony offense 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).
- 3. Zendejo committed an offense that TDI considers to be of such a serious nature that it is of prime importance in determining fitness for licensure or authorization, as contemplated by 28 TEX. ADMIN. CODE § 1.502(e) and TEX. OCC. CODE §§ 53.021-53.023.

- 4. Zendejo committed an offense for which fraud, dishonesty, or deceit is an essential element as contemplated by 28 TEX. ADMIN. CODE § 1.502(e)(1).
- 5. Zendejo committed a felony offense involving moral turpitude as contemplated by 28 TEX. ADMIN. CODE § 1.502(e)(3).
- 6. TDI 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 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;
  - 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; and
  - d. considers any felony offense involving moral turpitude to be of such a serious nature that it is of prime importance when determining fitness for licensure.
- 7. Zendejo 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, TDI asks the Administrative Law Judge to enter a Proposal for Decision recommending that the commissioner of insurance issue an order:

- 1. denying Alyin Zendejo's license application;
- 2. denying consent to allow Alyin Zendejo 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 Aylin Zendejo Page 4 of 4

Respectfully Submitted,

1 Wit

Sarah White State Bar No. 24024622 Texas Department of Insurance Enforcement, MC ENF P.O. Box 12030 Austin, Texas 78711-2030 (512) 676-6254 (Direct) (512) 490-1020 (Fax) Sarah.white@tdi.texas.gov

ATTORNEY FOR THE PETITIONER TEXAS DEPARTMENT OF INSURANCE

### Automated Certificate of eService

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: 78163786 Filing Code Description: Request to Docket Filing Description: Request to Docket Status as of 8/3/2023 10:56 AM CST

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	8/3/2023 10:20:58 AM	SENT

Associated Case Party: Texas Department of Insurance

Name	BarNumber	Email	TimestampSubmitted	Status
Sarah White		Sarah.White@tdi.texas.gov	8/3/2023 10:20:58 AM	SENT
Rachel Cloyd		Rachel.Cloyd@tdi.texas.gov	8/3/2023 10:20:58 AM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	8/3/2023 10:20:58 AM	SENT

#### Associated Case Party: Aylin Zendejo

Name	BarNumber	Email	TimestampSubmitted	Status
Aylin Zendejo			8/3/2023 10:20:58 AM	SENT
Aylin Zendejo			8/3/2023 10:20:58 AM	SENT

### Automated Certificate of eService

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: 78405260 Filing Code Description: Notice of Hearing Filing Description: Notice of Hearing and Original Petition Status as of 8/10/2023 1:42 PM CST

Associated Case Party: Texas Department of Insurance

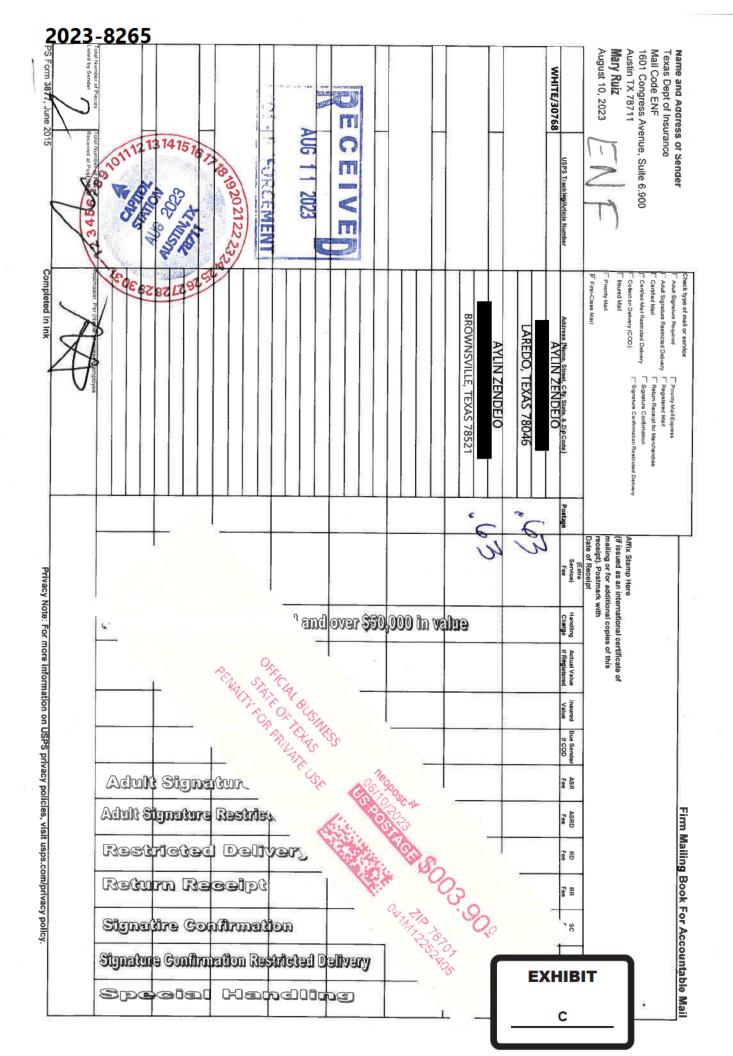
Name	BarNumber	Email	TimestampSubmitted	Status
Rachel Cloyd		Rachel.Cloyd@tdi.texas.gov	8/10/2023 1:40:42 PM	SENT
Sarah White		Sarah.White@tdi.texas.gov	8/10/2023 1:40:42 PM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	8/10/2023 1:40:42 PM	SENT
Leah Gillum		Leah.Gillum@tdi.texas.gov	8/10/2023 1:40:42 PM	SENT
Jodie Delgado		jodie.delgado@tdi.texas.gov	8/10/2023 1:40:42 PM	SENT

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	8/10/2023 1:40:42 PM	SENT

Associated Case Party: Aylin Zendejo

Name	BarNumber	Email	TimestampSubmitted	Status
Aylin Zendejo			8/10/2023 1:40:42 PM	SENT
Aylin Zendejo			8/10/2023 1:40:42 PM	SENT





#### 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: 08/10/2023

Shipped From:

Name: MC ENF M RUIZ

Address: 1601 CONGRESS AVENUE SUITE 6 900

City: AUSTIN

State: TX ZIP+4® 78711

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First-Class Package Service®	······
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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:

- 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.

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WHITE/30768 PS Form <b>5630,</b> September 2016 PS	N 7530-08-000-4335	EXHIBIT	RECEIVED AUG 11 2023 TDI - ENFORCEMENT

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