Official Order of the Texas Commissioner of Insurance

Date: <u>12/14/2023</u>

Subject Considered:

Nicholas Trevino
San Antonio, Texas 78245

Default Order SOAH Docket No. 454-24-03613 TDI Enforcement File No. 31813

General remarks and official action taken:

This is a default order taken against Nicholas Trevino (Respondent) because he misappropriated, converted to his own use, or illegally withheld money belonging to an insurer, engaged in fraudulent or dishonest practices, is not actively engaged in soliciting or writing insurance for the public generally, and failed to notify the department of a change in his mailing address and email address. 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 October 24, 2023, the department filed a Notice of Hearing, attached as Exhibit A, together with a previously filed Original Petition, attached as Exhibit B, with the State Office of Administrative Hearings.

Commissioner's Order Nicholas Trevino SOAH Docket No. 454-24-03613 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 together to Respondent's last known address provided in writing to the department,

 San Antonio, Texas 78245. 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, 4051.201, and 4054.051; 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.

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Order

It is ordered that any licenses held by Nicholas Trevino 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.

CANONIC— FC5D7EDDFFBB4F8...

Cassie Brown

Commissioner of Insurance

Prepared and reviewed by:

Casey Dick

Casey Dick, Staff Attorney

Enforcement

Commissioner's Order Nicholas Trevino SOAH Docket No. 454-24-03613 Page 4 of 5

Affidavit

STATE OF TEXAS §

S

COUNTY OF TRAVIS §

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

"My name is Roxanne Rodriguez 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 Nicholas Trevino. I have confirmed that:

- a. The last mailing address provided to the department in writing by Nicholas Trevino is , San Antonio, Texas 78245.
- b. The file maintained by Enforcement contains a Notice of Hearing, dated October 24, 2023, and an Original Petition dated October 20, 2023, which were filed together with the State Office of Administrative Hearings on October 24, 2023.
- c. On October 24, 2023, the Notice of Hearing and Original Petition addressed to Nicholas Trevino were mailed first-class and certified, return receipt requested, to his last known address.

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:	
Roxanne Rodrigues	
- 6DCE7C72F1D945F	
Affiant	

Commissioner's Order Nicholas Trevino SOAH Docket No. 454-24-03613 Page 5 of 5

SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on $\frac{11/20/2023}{}$. This notarial act was an online notarization.

Notary Seal



Digital Certificate

Mary Ruiy
795DC4D59167489...

Notary Public State of Texas

FILED 2023-8403 454-24-03613 10/24/2023 9:12 AM STATE OFFICE OF ADMINISTRATIVE HEARINGS Amy Robles, CLERK ACCEPTED 454-24-03613 10/24/2023 9:15:07 am STATE OFFICE OF ADMINISTRATIVE HEARINGS Amy Robles, CLERK

SOAH DOCKET NO. 454-24-03613 TDI ENFORCEMENT FILE NO. 31813

TEXAS DEPARTMENT OF INSURANCE,	BEFORE THE STATE OFFICE
Petitioner	
v.	OF
NICHOLAS TREVINO,	ADMINISTRATIVE HEARINGS
Respondent	ADMINISTRATIVE HEARINGS

NOTICE OF HEARING

The Texas Department of Insurance (TDI) 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 TDI.

A public hearing will be held before an Administrative Law Judge on **Monday, January 29, 2024, at 9:00 AM CT.** 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_____A

Notice of Hearing Nicholas Trevino SOAH Docket No. 454-24-03613 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 LICENSES, IMPOSITION OF ADMINISTRATIVE PENALTIES, AND/OR PAYMENT OF RESTITUTION 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 LICENSES, IMPOSITION OF ADMINISTRATIVE PENALTIES, AND/OR PAYMENT OF RESTITUTION 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

Notice of Hearing Nicholas Trevino SOAH Docket No. 454-24-03613 Page 3 of 5

(3) (by mail, fax, or email)
Casey Dick, Staff Attorney
Texas Department of Insurance
Enforcement, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 490-1020 (Fax)
Casey.Dick@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 Nicholas Trevino SOAH Docket No. 454-24-03613 Page 4 of 5

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

Respectfully Submitted,

/S/Casey Dick

Casey Dick
State Bar No. 24132039
Texas Department of Insurance
Enforcement, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 676-6328 (Direct)
(512) 490-1020 (Fax)
Casey.Dick@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 Nicholas Trevino SOAH Docket No. 454-24-03613 Page 5 of 5

CERTIFICATE OF SERVICE

I, Casey Dick, 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 24 day of October, 2023 to:

Nicholas Trevino
San Antonio, Texas 78245
Respondent Pro Se

Via CM/RRR No.:
9214 8901 9403 8335 1241 38
Via First Class Mail
and Via Email:

/S/Casey Dick

Casey Dick

SOAH DOCKET No. 454-24-03613

FILED 454-24-03613 10/20/2023 1:38 PM STATE OFFICE OF ADMINISTRATIVE HEARINGS Carol Hale, CLERK

SOAH DOCKET NO. 454-____
TDI ENFORCEMENT FILE NO. 31813

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

ACCEPTED
454-24-03613
10/20/2023 3:22:26 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
OF Carol Hale, CLERK

v.

NICHOLAS TREVINO,

ADMINISTRATIVE HEARINGS

Respondent

ORIGINAL PETITION

The Texas Department of Insurance (TDI) seeks to take disciplinary action against Nicholas Trevino. In support of this petition, TDI 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, 4051.201, and 4054.051; and Tex. Gov'T CODE §§ 2001.051-2001.178.

Factual Allegations

Licensure

- Nicholas Trevino (Trevino), individual identification no. 2500621, has held a county mutual agent license with the TDI since June 22, 2022. Trevino held a temporary county mutual license from January 27, 2022, until June 22, 2022.
- 2. In addition, Trevino has held a general lines agent license with a life, accident, health, and HMO qualification with TDI since July 1, 2022, and held a temporary license with the same qualification from January 26, 2022, until July 1, 2022.

Misappropriation

EXHIBIT

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Original Petition Nicholas Trevino Page 2 of 5

- 3. According to TDI's records, Trevino was appointed by The Reliable Life Insurance Company (Reliable Life) effective January 26, 2022, while holding his temporary life, accident, health, and HMO license.
- 4. While holding his general lines license, Trevino's appointment was canceled by Reliable Life on December 30, 2022, for abandoning his position.
- 5. Following Trevino's termination, Reliable Life performed a routine audit comparing what customers tendered to Trevino to what Trevino reported in receivables to Reliable Life.
- 6. Reliable Life found that Trevino failed to report and remit \$2,442.23 to Reliable Life which he collected from Reliable Life's policyholders.
- 7. Trevino's cash bond in the amount of \$369.40 was applied to the deficiency leaving a balance of \$2,072.83 due to Reliable Life.
- 8. Reliable Life attempted to collect the balance from Trevino without success.
- 9. According to TDI's records, Reliable Life canceled Trevino's appointment for cause, effective January 3, 2023.

Not Actively Engaged in the Business of Insurance

- 10. According to TDI's records, Trevino also held an appointment with Capitol County Mutual Fire Insurance Company from January 27, 2022 until January 3, 2023, when that appointment was also canceled for cause by Kemper, the parent company of Reliable Life.
- 11. Trevino currently has no active appointments and has not been actively engaged in soliciting or writing insurance for the public generally for nearly 10 months.

Original Petition Nicholas Trevino Page 3 of 5

Failure to Update Email and Mailing Addresses

- 12. TDI staff confirmed in April 2023 that Trevino's designated email address with a Kemper domain name, as shown in TDI's records, did not belong to Trevino. Instead, it belonged to a Reliable Life employee, specifically Trevino's former supervisor. Trevino did not update his email address with TDI after he was terminated from Reliable Life.
- 13. In July 2023, Reliable Life provided TDI with Trevino's personal email address, according to their records.
- 14. On July 11, 2023, TDI sent Trevino a reasonable request for information pursuant to Tex. Ins. Code § 38.001, to the personal email address Reliable Life had for Trevino, which was provided to TDI.
- 15. Trevino did not respond to the July 11, 2023, inquiry.
- 16. On July 31, 2023, TDI sent the July 11, 2023 request for information, together with a cover letter, by certified mail to Trevino at the mailing address he had designated in TDI's records. This correspondence was returned to TDI as undeliverable.
- 17. Trevino failed to notify TDI of a change to his mailing address.

Legal Allegations

- 1. Trevino has committed acts for which a license holder may be disciplined under Tex. Ins. Code §§ 4005.101 and 4005.102, because Trevino:
 - a. misappropriated, converted to his own use, or illegally withheld money belonging to an insurer, insured, enrollee, or beneficiary, in violation of Tex. INS. CODE § 4005.101(b)(4).
 - b. engaged in fraudulent or dishonest practices, in violation of Tex. INS. CODE § 4005.101(b)(5).

Original Petition Nicholas Trevino Page 4 of 5

- c. Is not actively engaged in soliciting or writing insurance for the public generally as required by Tex. Ins. Code § 4001.104(a), and in violation of Tex. Ins. Code § 4005.101(b)(10).
- 2. Trevino failed to notify TDI of a change of his mailing address, in violation of TEX. INS. CODE § 4001.252(a)(1) and 28 TEX. ADMIN. CODE § 19.906.
- 3. Trevino failed to notify TDI that communications could no longer be received at his designated email address in TDI's records, and he failed to notify TDI of a new email address for receipt of official department communications within 10 business days, in violation of 28 Tex. Admin. Code § 1.1302(c)

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. revoking Trevino's licenses; and,
- 2. 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 Nicholas Trevino Page 5 of 5

Respectfully Submitted,

Casey Dick

State Bar No. 24132039

Texas Department of Insurance

Enforcement, MC ENF

P.O. Box 12030

Austin, Texas 78711-2030

(512) 676-6328 (Direct)

(512) 490-1020 (Fax)

Casey.Dick@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 Casey Dick Bar No. 24132039 Enforcementgeneral@tdi.texas.gov

Envelope ID: 80821225

Filing Code Description: Request to Docket

Filing Description: Request to Docket Status as of 10/20/2023 3:24 PM CST

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	10/20/2023 2:46:12 PM	SENT

Associated Case Party: Texas Department of Insurance

Name	BarNumber	Email	TimestampSubmitted	Status
Casey Dick		casey.dick@tdi.texas.gov	10/20/2023 2:46:12 PM	SENT
Whitney Fraser		Whitney.Fraser@tdi.texas.gov	10/20/2023 2:46:12 PM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	10/20/2023 2:46:12 PM	SENT

Associated Case Party: Nicholas Trevino

Name	BarNumber	Email	TimestampSubmitted	Status
Nicholas Trevino			10/20/2023 2:46:12 PM	SENT
Nicholas Trevino			10/20/2023 2:46:12 PM	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 Casey Dick Bar No. 24132039

Enforcementgeneral@tdi.texas.gov

Envelope ID: 80895076

Filing Code Description: Notice of Hearing

Filing Description: Notice of Hearing and Original Petition

Status as of 10/24/2023 9:16 AM CST

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	10/24/2023 9:12:47 AM	SENT

Associated Case Party: Texas Department of Insurance

Name	BarNumber	Email	TimestampSubmitted	Status
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	10/24/2023 9:12:47 AM	SENT
Casey Dick		casey.dick@tdi.texas.gov	10/24/2023 9:12:47 AM	SENT
Rachel Cloyd		Rachel.Cloyd@tdi.texas.gov	10/24/2023 9:12:47 AM	SENT
Leah Gillum		Leah.Gillum@tdi.texas.gov	10/24/2023 9:12:47 AM	SENT
Jodie Delgado		jodie.delgado@tdi.texas.gov	10/24/2023 9:12:47 AM	SENT

Associated Case Party: Nicholas Trevino

Name	BarNumber	Email	TimestampSubmitted	Status
Nicholas Trevino			10/24/2023 9:12:47 AM	SENT
Nicholas Trevino			10/24/2023 9:12:47 AM	SENT

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Shipment Confirmation Acceptance Notice

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: 10/24/2023

Shipped From:

Name: MC ENF M RUIZ

1601 CONGRESS AVENUE SUITE 6 900 Address:

City:_AUSTIN

State: TX ZIP+49 78711

Type of Mail	Volume	
Priority Mail Express®*	F	
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First-Class Package Service®		1
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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DICK/31813

OCT 2 5 2023 TDI - ENFORCEMENT

EXHIBIT

PS Form 5630, September 2016

PSN 7530-08-000-4335

Firm Mailing Book For Accountable Mail

POSTAL SERVICE ®