

No. 2020-6441

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

Date: 08/20/2020

Subject Considered:

Kacey Adam Toliver
[REDACTED]
Merkel, TX 79536-6102

Default Order
SOAH Docket No. 454-20-4133.C
TDI Enforcement File No. 22669

General remarks and official action taken:

This is a default order taken against Kacey Adam Toliver (Respondent) because he created and presented fictitious certificates of insurance to consumers and misappropriated premiums converting them to his own use. 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 July 1, 2020, 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.

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Commissioner's Order

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3. The department sent the Notice of Hearing and Original Petition to Respondent's last known address provided in writing to the department, [REDACTED], Texas 79536-6102. 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 pursuant to Texas law, including TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4001.102, 4001.105, 4005.101-4005.105, and 4054.051; 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, 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.

Order

It is ordered that Kacey Adam Toliver's general lines license with life, accident, health, and HMO qualification is 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.

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Kent C. Sullivan

Commissioner of Insurance

DocuSigned by:

Doug Slape

C77A87C8C21B435...

By: _____

Doug Slape

Chief Deputy Commissioner

Commissioner's Order No. 2018-5528

Prepared and reviewed by:

Sydney Moore

Sydney Moore, Staff Attorney

Enforcement Division

Affidavit

STATE OF TEXAS §
 §
COUNTY OF TRAVIS §


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

"My name is Mary Ruiz 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 Kacey Adam Toliver. I have confirmed that:

- a. The last mailing address provided to the department in writing by Kacey Adam Toliver is [REDACTED], Texas 79536-6102.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated July 1, 2020, which were filed with the State Office of Administrative Hearings.
- c. On July 1, 2020, the Notice of Hearing and Original Petition addressed to Kacey Adam Toliver were sent via electronic mail to Respondent.
- d. On July 8, 2020 the Notice of Hearing and Original Petition addressed to Kacey Adam Toliver were mailed certified mail, return receipt requested, to his last known address.

Copies of the certified mail log maintained by the Enforcement Division are attached as Exhibit "C".

DocuSigned by:

 EAE64CE357C4E4...

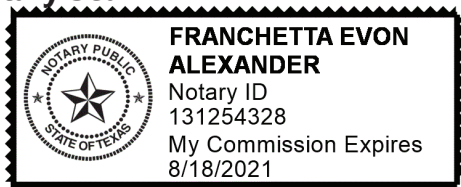
 Affiant

SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 7/31/2020, 2020. This notarial act was an online notarization.

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Notary Seal



Digital Certificate

DocuSigned by:
Franchetta Alexander
ED54610E15BF40C...
Notary Public State of Texas

2020-6441

ACCEPTED
454-20-4133
7/1/2020 4:39 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

FILED
454-20-4133
7/1/2020 3:56 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

**SOAH DOCKET NO. 454-20-4133
TDI ENFORCEMENT FILE NO. 22669**

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

KACEY ADAM TOLIVER,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

NOTICE OF HEARING

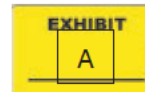
The Texas Department of Insurance seeks to take disciplinary action against you. This Notice of Hearing and the Original Petition, which is attached and incorporated for all purposes, states the allegations against you and the relief sought by the department.

A public hearing will be held before an Administrative Law Judge on **Tuesday, November 10, 2020, 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. 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 PURSUANT TO 1 TEX. ADMIN. CODE § 155.501 AND 28 TEX. ADMIN. CODE §§ 1.88 AND 1.89.



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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, ISSUANCE OF A CEASE AND DESIST ORDER, 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 LICENSE, ISSUANCE OF A CEASE AND DESIST ORDER, 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) 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 149104, MC112-2A
Austin, Texas 78714-9104
(512) 490-1064 (Fax)
chiefclerk@tdi.texas.gov; and
- (3) Sydney Moore, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104

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Kacey Adam Toliver

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(512) 490-1020 (Fax)

Sydney.moore@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 "Email Service" hyperlink, 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.

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

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Respectfully Submitted,



Sydney Moore
State Bar No. 24056052
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6339 (Direct)
(512) 490-1020 (Fax)
Sydney.moore@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

cc: Leah Gillum, Deputy Commissioner, Enforcement Division, MC-110-1A
Whitney Fraser, Litigation Director, Enforcement Division, MC-110-1A
Administrative Review, MC107-1A

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CERTIFICATE OF SERVICE

I, Sydney Moore, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by electronic mail, on this 1st day of July, 2020 to:

Kacey Adam Toliver
[REDACTED]
Merkel, TX 79536-6102
Respondent Pro Se

Via e-mail to: [REDACTED]



Sydney Moore

SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NO. 22669

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

KACEY ADAM TOLIVER,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to take disciplinary action against Kacey Adam Toliver. 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 pursuant to TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, and 4054.051, and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

1. Kacey Adam Toliver (Toliver), individual identification number 1519997, holds a general lines license with life, accident, health, and HMO qualification, issued by the Department on August 22, 2008.
2. Toliver created and presented a fictitious certificate of insurance to consumer, P.O. In doing so he purported to be an agent for Texas Wasatch Insurance Services LP, an operating entity of Goosehead Insurance.
3. Toliver accepted insurance premiums in the amount of \$700 from consumer, P.O., for the fraudulent policy and failed to submit an application for policy.

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Original Petition
Kacey Adam Toliver
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4. Toliver created and presented a fictitious certificate of insurance to Black Diamond Landscaping. In doing so he purported to be an agent for Texas Wasatch Insurance Services LP, an operating entity of Goosehead Insurance.
5. Toliver accepted insurance premiums in the amount of \$700 from Black Diamond Landscaping for the fraudulent policy and failed to submit an application for policy.
6. Toliver is not and has not ever been authorized to act as an agent for Texas Wasatch Insurance Services LP or Goosehead Insurance.
7. Toliver was sent an inquiry pursuant to TEX. INS. CODE § 38.001 on December 2, 2019, and failed to respond in writing not later than the 15th day after the date the inquiry was received.

Legal Allegations

1. Toliver has committed acts for which a license holder may be disciplined under TEX. INS. CODE § 4005.101, as contemplated in TEX. INS. CODE § 4005.102.
2. Toliver has misappropriated or converted for his own use money belonging to an insured or insurer, as contemplated by TEX. INS. CODE § 4005.101(b)(4).
3. Toliver has engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5).
4. Toliver solicited a contract for insurance or acted as an agent without having been appointed by an authorized insurance company in violation of TEX. INS. CODE § 4001.201.
5. Toliver failed to respond to a written inquiry pursuant to 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:

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1. revoking Kacey Adam Toliver's license and
2. any other just and appropriate relief to which the department may be entitled to by law.

Respectfully Submitted,



Sydney Moore
State Bar No. 24056052
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6339 (Direct)
(512) 490-1020 (Fax)
Sydney.Moore@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE



Firm Mailing Book For Accountable Mail

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Name and Address of Sender

MC 110-1A S. Beck
Texas Department of Insurance
333 Guadalupe St
Austin TX 78701

Check type of mail or service

- Adult Signature Required
- Adult Signature Restricted Delivery
- Certified Mail
- Certified Mail Restricted Delivery
- Collect on Delivery (COD)
- Insured Mail
- Priority Mail
- Priority Mail Express
- Registered Mail
- Return Receipt for Merchandise
- Signature Confirmation
- Signature Confirmation Restricted Delivery

Affix Stamp Here
(if issued as an international
certificate of mailing or for
additional copies of this receipt).
Postmark with Date of Receipt.

USPS Tracking/Article Number

1. 9214 8901 9403 8315 8775 59

MOORE 22869

Addressee (Name, Street, City, State, & ZIP Code™)

KACEY ADAM TOLIVER
MCKEL, TX 79536-6102



Postage

0.80

(Extra Service) Fee

3.55

Handling Charge

Handling Charge - if Registered and over \$50,000 in value

Actual Value if Registered

Insured Value

Due Sender if COD

ASR Fee

Adult Signature Required

ASRD Fee

Adult Signature Restricted Delivery

RD Fee

Restricted Delivery

RR Fee

Return Receipt

SC Fee

Signature Confirmation

SCRD Fee

Signature Confirmation Restricted Delivery

SH Fee

Special Handling

Total Number of Pieces Listed by Sender
1

Total Number of Pieces Received at Post Office
1

Postmaster: Per (Name of receiving employee)
Complete in Ink
J. Moore



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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: 07/08/2020
Shipped From:
Name: MC 110-1A S BECK
Address: 333 GUADALUPE 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



9275 0901 1935 6200 0022 8412 77

