

No. 2021-6703

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

Date: 03/03/2021

Subject Considered:

Joseph Edward Gargan

[REDACTED]
Arlington, VA 22201-3866

Default Order
SOAH Docket No. 454-21-1177.C
TDI Enforcement File No. 26440

General remarks and official action taken:

This is a default order taken against Joseph Edward Gargan (Respondent) because he created a fraudulent annuity then retained funds received from the client and because he no longer has a resident license in good standing in his home state. 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 January 26, 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.
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.

2021-6703

Commissioner's Order

Joseph Edward Gargan

SOAH Docket No. 454-21-1177.C

Page 2 of 5

3. The department sent the Notice of Hearing and Original Petition to Respondent's last known address provided in writing to the department, [REDACTED] [REDACTED] Arlington, VA 22201-3866. The Notice of Hearing and Original Petition were also sent by electronic mail to e-mail addresses associated with Respondent.
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, 4054.301 and 4101.051; 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.

2021-6703

Commissioner's Order
Joseph Edward Gargan
SOAH Docket No. 454-21-1177.C
Page 3 of 5

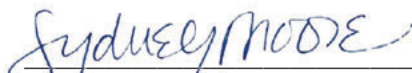
Order

It is ordered that any licenses held by Joseph Edward Gargan 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

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

Prepared and reviewed by:

 _____
Sydney Moore, Staff Attorney
Enforcement Division

2021-6703

Commissioner's Order
Joseph Edward Gargan
SOAH Docket No. 454-21-1177.C
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 Joseph Edward Gargan. I have confirmed that:

- a. The last mailing address provided to the department in writing by Joseph Edward Gargan is [REDACTED] Arlington, VA 22201-3866.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated January 26, 2021, which were filed with the State Office of Administrative Hearings.
- c. On January 25, 2021, the Notice of Hearing and Original Petition addressed to Joseph Edward Gargan were mailed certified, return receipt requested, to his last known address.

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

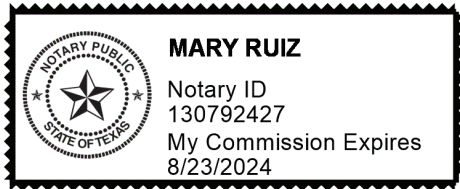
DocuSigned by:

ED13A433E7CD49A...
Affiant

2021-6703

Commissioner's Order
Joseph Edward Gargan
SOAH Docket No. 454-21-1177.C
Page 5 of 5

SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 2/23/2021. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:
Mary Ruiz

795DC4D59167489...

Notary Public State of Texas

ACCEPTED **2021-6703**

454-21-1177

01/26/2021 11:22 AM

STATE OFFICE OF

ADMINISTRATIVE HEARINGS

Donnie Roland, CLERK

FILED

454-21-1177

1/26/2021 11:21 AM

STATE OFFICE OF

ADMINISTRATIVE HEARINGS

Donnie Roland, CLERK

**SOAH DOCKET NO. 454-21-1177.C
TDI ENFORCEMENT FILE NO. 26440**

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

JOSEPH EDWARD GARGAN,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

NOTICE OF HEARING

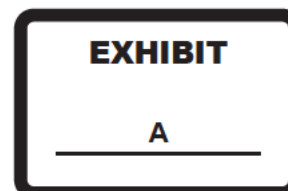
The Texas Department of Insurance seeks to take disciplinary action against you. This Notice of Hearing and the Original Petition, which is attached and incorporated for all purposes, states the allegations against you and the relief sought by the Department.

A public hearing will be held before an Administrative Law Judge on **Monday, April 5, 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 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.



2021-6703

Notice of Hearing

Joseph Edward Gargan

SOAH Docket No. 454-21-1177.C

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, 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

2021-6703

Notice of Hearing

Joseph Edward Gargan

SOAH Docket No. 454-21-1177.C

Page 3 of 5

(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 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.

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

2021-6703

Notice of Hearing

Joseph Edward Gargan

SOAH Docket No. 454-21-1177.C

Page 4 of 5

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

2021-6703

Notice of Hearing

Joseph Edward Gargan

SOAH Docket No. 454-21-1177.C

Page 5 of 5

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 certified mail, return receipt requested, on this 26th day of January, 2021 to:

Joseph Edward Gargan

[REDACTED]

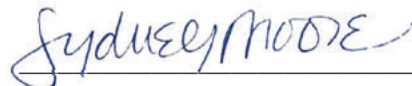
Arlington, VA 22201-3866

Respondent Pro Se

CM/RRR No.: 9214 8901 9403 8330 6288 08

email

[REDACTED]



Sydney Moore

SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NO. 26440

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

JOSEPH EDWARD GARGAN,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to take disciplinary action against Joseph Edward Gargan. 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 4054.301, and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

1. Joseph Edward Gargan (Gargan), individual identification number 496841, holds a non-resident life agent license originally issued by the Department on June 4, 2015.
2. Gargan has a Texas non-resident license because he lives in Virginia. This license type requires that Gargan have a resident license in good standing in his home state.
3. Gargan created a fraudulent annuity, purportedly from his employer, for the client's use in paying off the client's settlement obligations and then retained the funds received from the client for his own use.
4. Gargan voluntarily surrendered his insurance license in his resident state of Virginia as part of a settlement agreement.

EXHIBIT

B

2021-6703

Original Petition
Joseph Edward Gargan
Page 2 of 3

5. Gargan failed to notify the Department of the administrative action taken by Virginia within 30 days.

Legal Allegations

1. Gargan misappropriated and converted to his own use money belonging to an insurer, insured, enrollee, or beneficiary as contemplated by TEX. INS. CODE § 4005.101(b) (4).
2. Gargan has engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5).
3. Gargan failed to notify the Department or deliver a copy of any document or order from another state, pursuant to TEX. INS. CODE § 81.003, within 30 days of the occurrence of the suspension or revocation of his right to transact business.
4. Gargan failed to notify the Department of the administrative action taken by an insurance regulator of another state, in violation of TEX. INS. CODE § 4001.252(a)(3).
5. Gargan does not hold a license in good standing as an agent in his state of residence, as required by TEX. INS. CODE § 4056.052, and is no longer eligible to hold a non-resident license in Texas.

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 Gargan's license 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.

2021-6703

Original Petition
Joseph Edward Gargan
Page 3 of 3

Respectfully Submitted,

A handwritten signature in blue ink that reads "Sydney Moore". The signature is written in a cursive style and is positioned above a horizontal line.

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

2021-6703

02/15/2021 11:42



Delivered (system added)

Tracking #: 9214890194038330628808

Recipient: JOSEPH EDWARD GARGAN

ARLINGTON, VA 22201-3866

Date & Time	Event Type	Event	Event Location
01/26/2021 11:12		PRE-SHIPMENT INFO SENT USPS AWAITS ITEM	AUSTIN, TX, 78701
01/26/2021 16:27		PICKED UP	AUSTIN, TX, 78744
01/29/2021 22:25		PROCESSED THROUGH USPS FACILITY	AUSTIN, TX, 78710
01/30/2021 01:10		PROCESSED THROUGH USPS FACILITY	AUSTIN, TX, 78710
01/30/2021 08:54		DEPART USPS FACILITY	AUSTIN, TX, 78710
02/04/2021 00:33		PROCESSED THROUGH USPS FACILITY	GAITHERSBURG, MD, 20898
02/04/2021 01:25		DEPART USPS FACILITY	GAITHERSBURG, MD, 20898
02/05/2021 10:13		PROCESSED THROUGH USPS FACILITY	DULLES, VA, 20101
02/06/2021 07:38		PROCESSED THROUGH USPS FACILITY	DULLES, VA, 20101
02/07/2021 02:19		PROCESSED THROUGH USPS FACILITY	DULLES, VA, 20101
02/08/2021 05:31		PROCESSED THROUGH USPS FACILITY	DULLES, VA, 20101
02/09/2021 15:49		DELIVERED TO AGENT FOR FINAL DELIVERY	ARLINGTON, VA, 22201

EXHIBIT

C

2021-6703



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: 01/26/2021

Shipped From:

Name: MC 110-1A D MORENO

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 0026 5586 90

moore/26440



Firm Mailing Book For Accountable Mail

Name and Address of Sender

MC 110-1A D MORENO
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

USPS Tracking/Article Number

1. 9214 9901 9403 8330 6288 08

moore/26440

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

JOSEPH EDWARD GARGAN
22201-3866
ARLINGTON, VA

Affix Stamp Here

(for additional copies of this receipt).
Postmark with Date of Receipt.

2021-6703

Table with columns: Postage, (Extra Service) Fee, Handling Charge, Actual Value if Registered, Insured Value, Due Sender if COD, ASR Fee, ASRD Fee, RD Fee, RR Fee, SC Fee, SCRD Fee, Special Handling Fee

Total Number of Pieces Listed by Sender: 1

Total Number of Pieces Received at Post Office: 1

Postmaster, Per (Name of receiving employee)