

No. 2021-6824

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

Date: 05/13/2021

Subject Considered:

Fred Harvey


Indianapolis, Indiana 46268-5734

Default Order
SOAH Docket No. 454-21-1829
TDI Enforcement File No. 26569

General remarks and official action taken:

This is a default order taken against Fred Harvey (Respondent) because he: no longer holds a license in good standing in Indiana, his state of residence, and is no longer eligible to hold a non-resident license in Texas; engaged in fraudulent and dishonest practices; willfully violated an insurance law of this state; failed to notify the Texas Department of Insurance of an administrative action taken against him by insurance regulators of the states of Indiana and Idaho; and is not actively engaged in soliciting or writing insurance in Texas. Respondent did not respond to a Notice of Hearing filed by the department. 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 March 31, 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.

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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, [REDACTED], Indianapolis, Indiana 46268-5734. The Notice of Hearing and Original Petition were also sent by electronic mail and to one additional address associated with Respondent: [REDACTED] Indianapolis, Indiana 46228-1418.
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, 4051.051, and 4056.052, 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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Commissioner's Order

Fred Harvey

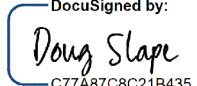
SOAH Docket No. 454-21-1829

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Order

It is ordered that any licenses held by Fred Harvey 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: 
C77A87C8C21B435...
Doug Slape
Chief Deputy Commissioner
TEX. GOV'T CODE § 601.002
Commissioner's Order No. 2018-5528

Prepared and reviewed by:



Amanda Atkinson Cagle, Staff Attorney
Enforcement Division

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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 Fred Harvey. I have confirmed that:

- a. The last mailing address provided to the department in writing by Fred Harvey is [REDACTED], Indianapolis, Indiana 46268-5734.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated March 31, 2021, which were filed with the State Office of Administrative Hearings.
- c. On March 31, 2021, the Notice of Hearing and Original Petition addressed to Fred Harvey were emailed and mailed certified, return receipt requested, to his last known address and one additional address: [REDACTED], Indianapolis, Indiana 46228-1418.

A copy of the certified mail log maintained by the Enforcement Division is attached as Exhibit C."

DocuSigned by:
David Moreno
E5CE7327D4E1488...

Affiant

2021-6824

Commissioner's Order

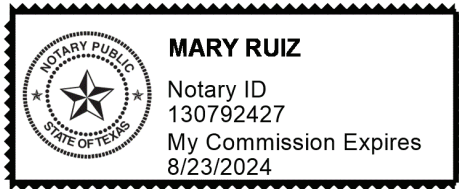
Fred Harvey

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 4/27/2021, 2021. This notarial act was an online notarization.

Notary Seal



Digital Certificate

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

ACCEPTE
2021-6824
454-21-1829
03/31/2021 9:01 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

FILED
454-21-1829
3/31/2021 9:00 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

**SOAH DOCKET NO. 454-21-1829
TDI ENFORCEMENT FILE NO. 26569**

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

FRED HARVEY,

ADMINISTRATIVE HEARINGS

Respondent

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 **Thursday, June 24, 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.

EXHIBIT
 A

Upload Date: 20210331090329 Account Number: 4119 Upload Description: 36a00e46-d73c-4d6c-b74c-c968b2e37c72-0-ENV51997743

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Notice of Hearing

Fred Harvey

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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, 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, 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) Amanda Atkinson Cagle, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 490-1020 (Fax)
amanda.cagle@tdi.texas.gov

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Notice of Hearing

Fred Harvey

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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.

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Notice of Hearing

Fred Harvey

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Respectfully Submitted,



Amanda Atkinson Cagle
State Bar No. 00783569
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6342 (Direct)
(512) 490-1020 (Fax)
amanda.cagle@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

cc; Leah Gillum, Deputy Commissioner, Enforcement Division, MC-110-1A
Rachel Cloyd, Litigation Director, Enforcement Division, MC-110-1A
Administrative Review, MC107-1A

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Notice of Hearing

Fred Harvey

SOAH Docket No. 454-21-1829

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CERTIFICATE OF SERVICE

I, Amanda Atkinson Cagle, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by certified mail, return receipt requested, and by email on this 31st day of March, 2021 to:

Fred Harvey

[REDACTED]

Indianapolis, Indiana 46268-5734

Via CMRRR No.: 9214 8901 9403 8336 2281 87

& Via Email: [REDACTED]

& Via Email: [REDACTED]

Fred Harvey

[REDACTED]

Indianapolis, Indiana 46228-1418

Via CMRRR No.: 9214 8901 9403 8336 2283 54



Amanda Atkinson Cagle

ACCEPTED
454-21-1829
03/30/2021 9:38 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

SOAH DOCKET NO. 454-454-21-1829
TDI ENFORCEMENT FILE NO. 26569

FILED
454-21-1829
3/30/2021 8:32 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

FRED HARVEY,

ADMINISTRATIVE HEARINGS

Respondent

ORIGINAL PETITION

The Texas Department of Insurance (TDI) seeks to take disciplinary action against Fred Harvey. In support of this petition, TDI 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, 4051.051, and 4056.052, and TEX. GOV'T CODE §§ 2001.051-2001.178.

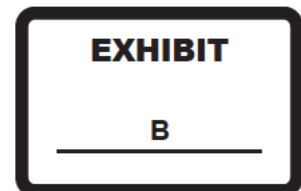
Factual Allegations

Licensure

1. Fred Harvey (Harvey) holds a non-resident general lines agent license with a property and casualty qualification, originally issued by TDI on August 1, 2019.
2. Harvey has a non-resident license because he lives in Indiana. This license type requires that Harvey have a resident license in good standing in his home state.

Unreported Administrative Actions Taken in Other States

3. On July 23, 2020, the Indiana Department of Insurance (Indiana), issued an Order against Harvey in case no. 19226-AD20-0528-190. The Indiana Order:



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Original Petition

Fred Harvey

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- a. found that Harvey's license expired on June 4, 2020;
 - b. found that on March 3, 2020, State Auto Insurance Company filed a complaint alleging that Harvey had failed to return over \$183,000 in premium payments to them for 14 different policies;
 - c. found that on May 12, 2020, Erie Insurance notified Indiana that it had suspended and then terminated Harvey's binding authority due to Harvey allegedly not remitting premiums; and
 - d. non-renewed Harvey's license due to his termination for cause for alleged theft of an insurance premium.
4. Harvey no longer holds a resident license in good standing in his home state.
 5. On November 6, 2020, the Idaho Department of Insurance (Idaho) issued an Order against Harvey in docket no. 18-3874-20. The Idaho Order:
 - a. found that Indiana refused to renew Harvey's license because an insurer terminated him for the cause of alleged theft of insurance premium and
 - b. revoked Harvey's Idaho insurance license.
 6. Harvey did not notify TDI of either the Indiana Order or the Idaho Order.

No Active Appointments

7. Harvey has no active appointments in Texas and is not actively engaged or intending to be actively engaged in soliciting or writing insurance in Texas.

Legal Allegations

1. Harvey does not hold a license in good standing as an agent in his home state of residence, as required by TEX. INS. CODE § 4056.052, and is no longer eligible to hold a non-resident license in Texas.
2. Harvey has committed acts for which a license holder may be disciplined under TEX. INS. CODE §§ 4005.101 and 4005.102.

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Original Petition

Fred Harvey

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3. Harvey has willfully violated an insurance law of this state, in violation of TEX. INS. CODE § 4005.101(b)(1).
4. Harvey did not notify TDI of the administrative action(s) taken against him by insurance regulators of another state, in violation of TEX. INS. CODE § 4001.252(a)(3).
5. Harvey engaged in fraudulent or dishonest acts or practices, in violation of TEX. INS. CODE § 4005.101(b)(5).
6. Harvey is not actively engaged in soliciting or writing insurance for the public generally as required by TEX. INS. CODE § 4001.104(a), in violation of TEX. INS. CODE § 4005.101(b)(10).

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 Harvey's license and
2. imposing any other just and appropriate relief to which TDI may be entitled to by law, including any combination of the above actions.

Respectfully Submitted,



Amanda Atkinson Cagle
State Bar No. 00783569
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6342 (Direct)
(512) 490-1020 (Fax)
amanda.cagle@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

2021-6824



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: 03/31/2021

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	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:

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 0027 9438 53



cagle/26569

EXHIBIT

C



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

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

USPS Tracking/Article Number

1. 9214 8901 9403 8336 2281 87

FRED HARVEY
 46285-5734
 INDIANAPOLIS, INDIANA

2. 9214 8901 9403 8336 2283 54

FRED HARVEY
 INDIANAPOLIS, INDIANA 46228-1418

cagle/26569

2021-6824

RECEIVED
 APR 05 2021
TDI - ENFORCEMENT



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	SH Fee
1.40	3.60	Handling Charge - if Registered and over \$50,000 in value				Adult Signature Required	Adult Signature Restricted Delivery	Restricted Delivery	Return Receipt	Signature Confirmation	Signature Confirmation Restricted Delivery	Special Handling
1.40	3.60								1.75			

Total Number of Pieces Listed by Sender: 2
 Total Number of Pieces Received at Post Office: 2
 PS Form 3877, January 2017 (Page 1 of 1)
 PSN 7530-02-000-9098 Jobid: 2806544

Postmaster/Per Name of receiving employee)
 Complete in Ink

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