

No. 2020-6641

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

Date: 01/07/2021

Subject Considered:

Amy Michelle Hernandez
[REDACTED]
Karnes City, TX 78118

Default Order
SOAH Docket No. 454-21-0747
TDI Enforcement File No. 25513

General remarks and official action taken:

This is a default order taken against Amy Michelle Hernandez (Respondent) because she misappropriated premiums and converted them to her 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 December 2, 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.
3. The department sent the Notice of Hearing and Original Petition to Respondent's last known address provided in writing to the department, [REDACTED],

2021-6641

Commissioner's Order

Amy Michelle Hernandez

SOAH Docket No. 454-21-0747

Page 2 of 5

Karnes City, TX 78118. 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 4101.051 and 4054.01; 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 any licenses held by Amy Michelle Hernandez 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.

2021-6641

Commissioner's Order
Amy Michelle Hernandez
SOAH Docket No. 454-21-0747
Page 3 of 5

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:

L. Merida

Latoya Merida, Staff Attorney
Enforcement Division

2021-6641

Commissioner's Order
Amy Michelle Hernandez
SOAH Docket No. 454-21-0747
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 Amy Michelle Hernandez. I have confirmed that:

- a. The last mailing address provided to the department in writing by Amy Michelle Hernandez is [REDACTED], Karnes City, TX 78118.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated December 2, 2020, which were filed with the State Office of Administrative Hearings.
- c. On December 2, 2020, the Notice of Hearing and Original Petition addressed to Amy Michelle Hernandez were mailed certified, return receipt requested, to her last known address.

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

DocuSigned by:

David Moreno

B7DD4E5FFA024AE...

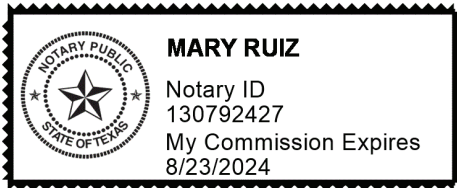
Affiant

2021-6641

Commissioner's Order
Amy Michelle Hernandez
SOAH Docket No. 454-21-0747
Page 5 of 5

SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 1/4/2021. This notarial act was an online notarization.

Notary Seal



Digital Certificate

DocuSigned by:
Mary Ruiz
795DC4D59167489...

Notary Public State of Texas

ACCEPTED **2021-6641**
454-21-0747
12/02/2020 4:16 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

FILED
454-21-0747
12/2/2020 2:52 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

SOAH DOCKET NO. 454-21-0747
TDI ENFORCEMENT FILE NO. 25513

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

v.

OF

AMY MICHELLE HERNANDEZ,

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 **Monday, March 1, 2021, at 1:00 p.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

2021-6641

Notice of Hearing

Amy Michelle Hernandez

SOAH Docket No. 454-21-0747

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) Latoya Merida, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104

2021-6641

Notice of Hearing

Amy Michelle Hernandez

SOAH Docket No. 454-21-0747

Page 3 of 5

(512) 490-1020 (Fax)

Latoya.merida@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.

Respectfully Submitted,

2021-6641

Notice of Hearing

Amy Michelle Hernandez

SOAH Docket No. 454-21-0747

Page 4 of 5

L. Merida

Latoya Merida
State Bar No. 24089625
Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6344 (Direct)
(512) 490-1020 (Fax)
Latoya.merida@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

2021-6641

Notice of Hearing

Amy Michelle Hernandez

SOAH Docket No. 454-21-0747

Page 5 of 5

CERTIFICATE OF SERVICE

I, Latoya Merida, 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 electronic mail, on this 2nd day of December, 2020 to:

Amy Michelle Hernandez

[REDACTED]

Karnes City, TX 78118

Respondent Pro Se

Via CM/RRR No.:

9214 8901 9403 8326 7132 80

Via Email: [REDACTED]

L. Merida

Latoya Merida

SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NO. 25513

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

AMY MICHELLE HERNANDEZ,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to take disciplinary action against Amy Michelle Hernandez. 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. Amy Michelle Hernandez (Hernandez) holds a general lines license with a life, accident, health and HMO qualification that was issued by the department on August 2, 2016.
2. Hernandez was employed by American National Insurance Company from March 14, 2016, until August 23, 2019.
3. Hernandez collected premiums totaling \$6,110.05 then failed to remit the money to American National Insurance Company.
4. The department sent a request for information to Hernandez on March 25, 2020, regarding these allegations and Hernandez failed to timely respond.

EXHIBIT

B

Legal Allegations

1. Hernandez 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. Hernandez has misappropriated or converted for her own use money belonging to an insured or insurer, as contemplated by TEX. INS. CODE § 4005.101(b)(4).
3. Hernandez has engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5).
4. Hernandez failed to timely respond to a written inquiry pursuant to TEX. INS. CODE § 38.001.
5. According to TDI records, Hernandez does not have any active appointments and therefore is not actively engaged in the business of insurance as required by TEX. INS. CODE § 4005.101(b)(10).

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 Amy Michelle Hernandez's license;
2. directing Amy Michelle Hernandez to make restitution to the victim under TEX. INS. CODE § 82.053; 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.

Respectfully Submitted,

L. Merida

Latoya Merida
State Bar No. 24089625

2021-6641

Original Petition

Amy Michelle Hernandez

Page 3 of 3

Texas Department of Insurance
Enforcement Division, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6344 (Direct)
(512) 490-1020 (Fax)
Latoya.merida@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

2021-6641



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: 12/02/2020
Shipped From:
Name: MC 110-1A M RUIZ
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 0025 6075 04



MERIDA/25513

EXHIBIT

C

