

No. 2021-7123

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

Date: 12/09/2021

Subject Considered:

Elias Hernandez

[REDACTED]
Houston, TX 77072

Default Order
SOAH Docket No. 454-22-0753
TDI Enforcement File No. 26307

General remarks and official action taken:

The subject of this default order is whether a general lines agent life, accident, health, and HMO license should be issued to Elias Hernandez (Respondent). Respondent did not respond to a Notice of Hearing filed by the Texas Department of Insurance. This order denies Respondent's license application.

The following findings of fact and conclusions of law are adopted:

Findings of Fact

1. On November 9, 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.
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] Houston, TX 77072, and to the electronic mail address on file with the department.

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Commissioner's Order

Elias Hernandez

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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, and 4054.051; TEX. OCC. CODE §§ 53.021-53.023; 28 TEX. ADMIN. CODE § 1.502; TEX. ADMIN. CODE § 1.502(e); 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.

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Order

It is ordered that Elias Hernandez's license application is denied. A copy of this order will be provided to law enforcement or other appropriate administrative agencies for further investigation as may be warranted.

DocuSigned by:

By: FC5D7EDDFFB4F8...
Cassie Brown
Commissioner of Insurance

Prepared and reviewed by:



Nancy Williams, Staff Attorney
Enforcement Division

2021-7123

Commissioner's Order

Elias Hernandez

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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 Elias Hernandez. I have confirmed that:

- a. The last mailing address provided to the department in writing by Elias Hernandez is [REDACTED] Houston, TX 77072.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated November 9, 2021, which were filed with the State Office of Administrative Hearings.
- c. On November 9, 2021, the Notice of Hearing and Original Petition addressed to Elias Hernandez were sent by certified mail, return receipt requested, to his last known address.

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

DocuSigned by:
David Moreno
A13E3706553F4E2... _____

Affiant

2021-7123

Commissioner's Order

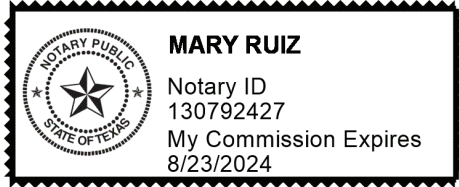
Elias Hernandez

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 11/30/2021. This notarial act was an online notarization.

Notary Seal



Digital Certificate

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

2021-7123

FILED
454-22-0753
11/9/2021 11:54 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

**SOAH DOCKET NO. 454-22-0753
TDI ENFORCEMENT FILE NO. 26307**

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

ACCEPTED
454-22-0753
11/9/2021 12:07:50 pm
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

v.

OF

ELIAS HERNANDEZ,

ADMINISTRATIVE HEARINGS

Respondent

NOTICE OF HEARING

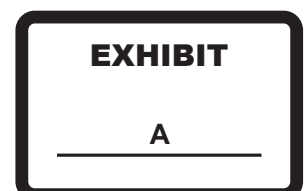
The Texas Department of Insurance seeks to deny your license application. This Notice of Hearing and the Original Petition, which is attached and incorporated for all purposes, states the allegations against you and the relief sought by the Department.

A public hearing will be held before an Administrative Law Judge on **March 10, 2022, 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 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.



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Notice of Hearing

Elias Hernandez

SOAH Docket No. 454-22-0753

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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 DENIAL OF YOUR LICENSE APPLICATION, 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 DENIAL OF YOUR LICENSE APPLICATION, 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 12030, MC GC-CCO
Austin, Texas 78711-2030
(512) 490-1064 (Fax)
chiefclerk@tdi.texas.gov; and
- (3) Nancy Williams, Staff Attorney
Texas Department of Insurance
Enforcement Division, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 490-1020 (Fax)
Nancy.Williams@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 not change the procedures you must follow to file documents with SOAH. You may file documents with SOAH by mail, fax, or electronically. To file electronically, you must use eFileTexas. Instructions on using eFileTexas 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.

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Elias Hernandez

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

Respectfully Submitted,



Nancy Williams

State Bar No. 24058175

Texas Department of Insurance

Enforcement Division, MC ENF

P.O. Box 12030

Austin, Texas 78711-2030

(512) 676-6338 (Direct)

(512) 490-1020 (Fax)

Nancy.Williams@tdi.texas.gov

ATTORNEY FOR THE PETITIONER

TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

cc: Leah Gillum, Deputy Commissioner, Enforcement Division, MC ENF
Whitney Fraser, Litigation Director, Enforcement Division, MC ENF
Administrative Review, MC CO-AAL

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CERTIFICATE OF SERVICE

I, Nancy Williams, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent by electronic mail and by certified mail, return receipt requested, on this 9th day of November 2021 to:

Elias Hernandez

[REDACTED]

Houston, TX 77072

Respondent Pro Se

Via Email: [REDACTED]

Via CM/RRR No.: 9214 8901 9403 8358 7579 00



Nancy Williams

2021-7123

FILED
454-22-0753
11/9/2021 8:35 AM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

**SOAH DOCKET NO. 454-22-0753
TDI ENFORCEMENT FILE NO. 26307**

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

ACCEPTED
454-22-0753
11/9/2021 9:14:13 am
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Carol Hale, CLERK

v.

OF

ELIAS HERNANDEZ,

ADMINISTRATIVE HEARINGS

Respondent

ORIGINAL PETITION

The Texas Department of Insurance seeks to deny Elias Hernandez’s license application. 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, 4054.051, 28 TEX. ADMIN. CODE § 1.502; TEX. OCC. CODE §§ 53.021–53.023; and TEX. GOV’T CODE §§ 2001.051-2001.178.

Factual Allegations

Application

1. Elias Hernandez (Hernandez) applied for a general lines agent life, accident, health, and HMO license with the Texas Department of Insurance (TDI) on July 17, 2020.
2. On September 23, 2020, TDI proposed to deny the license based on Hernandez’s criminal history.
3. On October 26, 2020, TDI received Hernandez’s request for a hearing on this matter.

EXHIBIT

B

Criminal History

4. On December 7, 1999, Hernandez was convicted by a jury of his peers, of three first degree felony offenses for aggravated sexual assault of a child in cause numbers 98-CR 1006, 1007, and 1008.
5. Hernandez's three convictions are for crimes listed under Chapter 22 of the penal code, specifically, TEX. PENAL CODE § 22.021.
6. Hernandez's three convictions are for crimes listed under Article 42A.054 of the criminal procedure code, specifically, TEX. CODE CRIM. PRO. 42A.054(a)(9).
7. Hernandez's convictions require him to register as a sex offender, as contemplated by TEX. CODE CRIM. PRO. § 62.001(5)(a).

Legal Allegations

1. Hernandez committed acts, namely felony convictions, that allow the department to deny a license application under TEX. INS. CODE § 4005.101(b)(8).
2. Hernandez has been convicted of offenses listed in Article 42A.054, that allow the department to disqualify him from receiving a license under TEX. OCC. CODE § 53.021(a)(2).
3. Hernandez been convicted of sexually violent offenses, defined by Article 62.001 of the code of criminal procedure, that allow the department to disqualify him from receiving a license under TEX. OCC. CODE § 53.021(a)(3).
4. Hernandez has committed offenses that directly relate to the duties and responsibilities of the licensed profession, as contemplated by TEX. OCC. CODE § 53.021(a)(1) and 28 TEX. ADMIN. CODE § 1.502(d), specifically:
 - a. The department considers Hernandez's crimes to be of such a serious nature that they are of prime importance in determining fitness for licensure because they are felony offenses involving moral turpitude or breach of fiduciary duty, as contemplated by 28 TEX. ADMIN. CODE § 1.502 (e)(3).

- b. The department considers Hernandez's crimes to be of such a serious nature that they are of prime importance in determining fitness for licensure because they are offenses containing the essential elements of felony assault described by chapter 22 of the penal code, as contemplated by 28 TEX. ADMIN. CODE § 1.502(e)(4)(B).

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. denying Elias Hernandez's license application and
2. imposing any other just and appropriate relief to which the department may be entitled to by law.

Respectfully Submitted,



Nancy Williams
State Bar No. 24058175
Texas Department of Insurance
Enforcement Division, MC ENF
P.O. Box 12030
Austin, Texas 78711-2030
(512) 676-6338 (Direct)
(512) 490-1020 (Fax)
Nancy.Williams@tdi.texas.gov

ATTORNEY FOR THE PETITIONER
TEXAS DEPARTMENT OF INSURANCE

2021-7123



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: 11/09/2021

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 0032 9271 76

WILLIAMS/26307





2021-7123

Name and Address of Sender
MC 110-1A M RUIZ
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.

Table with columns: USPS Tracking/Article Number, Addressee (Name, Street, City, State, & ZIP Code), 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, ST Fee. Includes row for WILLIAMS/26307 and a summary row for Total Number of Pieces.