

No. 2020-6469

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

**Date:** 09/16/2020

**Subject Considered:**

Javier Herrera

[REDACTED]  
San Antonio, Texas 78221-2328

Default Order  
SOAH Docket No. 454-20-4379.C  
TDI Enforcement File No. 17026

**General remarks and official action taken:**

This is a default order taken against Javier Herrera (Respondent) because he engaged in fraudulent and dishonest practices, engaged in unauthorized insurance, failed to respond to official inquiries, and failed to register an assumed name with the Texas Department of Insurance. 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 July 29, 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], San Antonio, Texas 78221-2328. The Notice of Hearing and Original Petition were also sent by electronic mail and to the email address 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, 84.021-82.044, 4001.002, 4005.101, 4005.102, and 4051.101, 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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## 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 Javier Herrera. I have confirmed that:

- a. The last mailing address provided to the department in writing by Javier Herrera is [REDACTED], San Antonio, Texas 78221-2328.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated July 29, 2020, which were filed with the State Office of Administrative Hearings.
- c. On July 29, 2020, the Notice of Hearing and Original Petition addressed to Javier Herrera were mailed certified, return receipt requested, to his last known address and sent electronically to his email address [REDACTED].

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

DocuSigned by:

*Mary Ruiz*

9C2F1C55BE5840E...

Affiant

# 2020-6469

Commissioner's Order

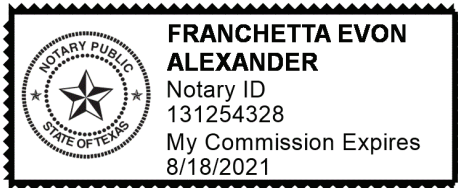
Javier Herrera

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on August 21, 2020. This notarial act was an online notarization.

## Notary Seal

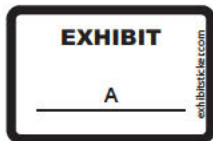


## Digital Certificate

DocuSigned by:  
*Franchetta Alexander*  
ED54610E15BF40C...

Notary Public State of Texas

ACCEPTED **2020-6469**  
454-20-4379  
7/29/2020 10:18 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Donnie Roland, CLERK



FILED  
454-20-4379  
7/29/2020 9:50 AM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Donnie Roland, CLERK

**SOAH DOCKET NO. 454-20-4379.C**  
**TDI ENFORCEMENT FILE NO. 17026**

**TEXAS DEPARTMENT OF INSURANCE,**

**BEFORE THE STATE OFFICE**

**Petitioner**

**v.**

**OF**

**JAVIER HERRERA,**

**Respondent**

**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, October 27, 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](http://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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Notice of Hearing

Javier Herrera

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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) Patrick Quigley, Staff Attorney  
Texas Department of Insurance  
Enforcement Division, MC110-1A  
333 Guadalupe Street  
Austin, Texas 78701

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Notice of Hearing

Javier Herrera

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(512) 490-1020 (Fax)

[Patrick.quigley@tdi.texas.gov](mailto:Patrick.quigley@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](http://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.

Respectfully Submitted,

/s/ Patrick Quigley

Patrick Quigley

State Bar No. 16430320

Texas Department of Insurance

Enforcement Division, MC110-1A

P.O. Box 149104

Austin, Texas 78714-9104



## 2020-6469

Notice of Hearing

Javier Herrera

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(512) 676-6335 (Direct)

Patrick.quigley@tdi.texas.gov

ATTORNEY FOR THE PETITIONER  
TEXAS DEPARTMENT OF INSURANCE

Enclosure: Original Petition

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

### CERTIFICATE OF SERVICE

I, Patrick Quigley, certify that a true and correct copy of the *Notice of Hearing and the Original Petition* were sent email and by certified mail, return receipt requested, on July 29, 2020 to:

Javier Herrera

[REDACTED]

San Antonio, TX 78221-2328

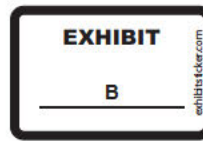
Via CM/RRR No.:

9214 8901 9403 8317 4564 55

Via email: [REDACTED]

/s/ Patrick Quigley

Patrick Quigley



**SOAH DOCKET NO. 454-\_\_\_\_\_**  
**TDI ENFORCEMENT FILE NO. 17026**

**TEXAS DEPARTMENT OF INSURANCE,**

**Petitioner**

**v.**

**JAVIER HERRERA,**

**Respondent**

**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**ORIGINAL PETITION**

The Texas Department of Insurance seeks to take disciplinary action against Javier Herrera (Herrera), Respondent. 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, 84.021-82.044, 4001.002, 4005.101, 4005.102, and 4051.101, and TEX. GOV'T CODE §§ 2001.051-2001.178.

**Factual Allegations**

Licensure and Background

1. Herrera, individual identification number 1338092, holds a limited lines agent license originally issued by the Texas Department of Insurance on February 2, 2017.

Fake Documents

2. A consumer filed a complaint with the department because she believed that three of her used car dealership's customers' insurance cards seemed very questionable. Complainant called the insurance company and was told they had no insureds with those names and the policy numbers were not for any of their insurance policy numbers. The customers of the complainant claimed that Herrera issued the fake insurance cards.

Unauthorized Business of Insurance

3. An employee of Herrera admitted she was not licensed but was authorized by Herrera to use his license while he was on vacation. One or more employees of Herrera, who also were not licensed agents, were offering insurance quotes on Facebook.
4. Herrera has three locations selling insurance under the assumed name Cowboy Insurance. Cowboy Insurance is not a licensed agency and the name is not registered as an assumed name with the department.

Failure to Respond to Department Inquiries

5. On January 8, 2020 and January 30, 2020, requests for information pursuant to TEX. INS. CODE § 38.001 were sent to Herrera, and he failed to respond to the inquiries.

**Legal Allegations**

1. Herrera committed acts for which a license holder may be disciplined under TEX. INS. CODE § 4005.101, as contemplated by TEX. INS. CODE § 4005.102.
2. Herrera willfully violated an insurance law of this state, as contemplated by TEX. INS. CODE § 4005.101(b)(1).
3. Herrera misappropriated, converted to his own use, or illegally withheld money belonging to an insurer, HMO, insured, enrollee or beneficiary, as contemplated by TEX. INS. CODE § 4005.101(b)(4).
4. Herrera engaged in fraudulent or dishonest acts or practices, TEX. INS. CODE § 4005.101(b)(5).
5. Herrera engaged in unauthorized insurance by allowing his employees to act as insurance agents when they were not licensed agents, in violation of TEX. INS. CODE §§ 101.051 and 4051.101.
6. Herrera violated TEX. ADMIN. CODE § 19.902 and/or TEX. INS. CODE §§ 101.051 because Cowboy Insurance is not licensed or registered as an assumed name with the department.

**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 respondent's license,
2. directing respondent to pay an administrative penalty under TEX. INS. CODE §§ 84.021 – 84.022,
3. directing respondents to make restitution to victims under TEX. INS. CODE § 82.053, and
4. 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,

/s/ Patrick Quigley

Patrick Quigley

State Bar No. 16430320

Texas Department of Insurance

Enforcement Division, MC110-1A

P.O. Box 149104

Austin, Texas 78714-9104

(512) 676-6335 (Direct)

(512) 490-1020 (Fax)

Patrick.quigley@tdi.texas.gov

ATTORNEY FOR THE PETITIONER

TEXAS DEPARTMENT OF INSURANCE

2020-6469



EXHIBIT

C

exhibits.ticker.com

# 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: 07/29/2020

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 0023 2515 94

QUIGLEY/17026



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

USPS Tracking/Article Number

1. 9214 8901 9403 8317 4564 55

QUIGLEY/17026

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

JAMIER HERRERA TX 76221-2328

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

2020-6469

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)

2020-6469



Texas Department  
of Insurance  
MC110-1A  
333 Guadalupe  
Austin, TX 78701

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USPS CERTIFIED MAIL



9214 8901 9403 8317 4564 55

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JAVIER HERRERA

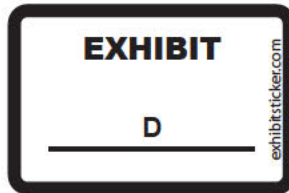
[REDACTED]  
SAN ANTONIO TX 78221-2328

Return Ref#: QUIGLEY/17026

Postage: \$6.4500

**From:** [No-Reply@eFileTexas.gov](mailto:No-Reply@eFileTexas.gov)  
**To:** [Patrick Quigley](mailto:Patrick.Quigley@tdi.texas.gov)  
**Subject:** Notification of Service for Case: 454-20-4379, for filing Notice of Hearing, Envelope Number: 44915801  
**Date:** Wednesday, July 29, 2020 9:51:26 AM

**ATTENTION: This email came from an external source. Do not open attachments or click on links from unknown or unexpected emails.**



# Notification of Service

Case Number: 454-20-4379  
Case Style:  
Envelope Number: 44915801

This is a notification of service for the filing listed. Please click the link below to retrieve the submitted document.

| Filing Details             |   |
|----------------------------|---|
| <b>Case Number</b>         | 454-20-4379   |
| <b>Case Style</b>          |   |
| <b>Date/Time Submitted</b> | 7/29/2020 9:50 AM CST   |
| <b>Filing Type</b>         | Notice of Hearing   |
| <b>Filing Description</b>  | 454-20-4379.C_TDI 17026_Herrera_ NOH with Original Petition   |
| <b>Filed By</b>            | Mary Ruiz   |
| <b>Service Contacts</b>    | Texas Department of Insurance:<br><br>Leah Gillum (Leah.Gillum@tdi.texas.gov)<br><br>Patrick Quigley (Patrick.Quigley@tdi.texas.gov)<br><br>Texas Department of Insurance<br>(Enforcementgeneral@tdi.texas.gov)<br><br>Catarina Tapia (Catarina.Tapia@tdi.texas.gov)<br><br>Ginger Loeffler (Ginger.Loeffler@tdi.texas.gov)<br><br>Chief Clerk: |



|  |  |
|--|--|
|  | Chief Clerk (ChiefClerk@tdi.texas.gov) |
|  | Javier Herrera:                        |
|  | Javier Herrera ([REDACTED])            |

| Document Details                 |                                   |
|----------------------------------|-----------------------------------|
| <b>Served Document</b>           | <a href="#">Download Document</a> |
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