

No. 2020-6531

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

Date: 10/28/2020

Subject Considered:

Justin Eugene Barham
[REDACTED]
La Porte, TX 77571-7019

Default Order
SOAH Docket No. 454-21-0189.C
TDI Enforcement File No. 17145

General remarks and official action taken:

The subject of this default order is whether an adjuster all lines license should be issued to Justin Eugene Barham (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

Failure to Respond to Notice of Hearing

1. On September 23, 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], La

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Porte, TX 77571-7019. 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; 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.

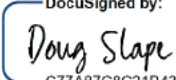
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Order

It is ordered that Justin Eugene Barham's application is denied. 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

DocuSigned by:

By: C77A87C8C21B435...
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

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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 Justin Eugene Barham. I have confirmed that:

- a. The last mailing address provided to the department in writing by Justin Eugene Barham is [REDACTED], La Porte, Texas 77571-7019.
- b. The file maintained by the Enforcement Division contains a Notice of Hearing and Original Petition dated September 23, 2020, which were filed with the State Office of Administrative Hearings.
- c. On September 23, 2020, the Notice of Hearing and Original Petition addressed to Justin Eugene Barham were mailed certified, return receipt requested, to his last known address and by electronic mail.

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

DocuSigned by:

David Moreno

3112B5A0281F4AE... _____

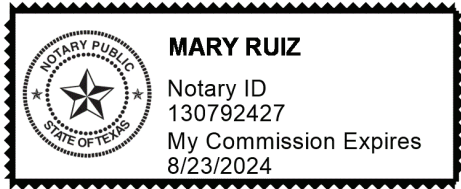
Affiant

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SWORN TO AND SUBSCRIBED before me by means of an interactive two-way audio and video communication on 10/19/2020. This notarial act was an online notarization.

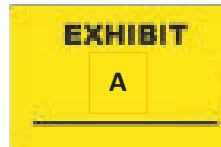
Notary Seal



Digital Certificate

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

2020-6531
ACCEPTED
454-21-0189
9/23/2020 12:44 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK



FILED
454-21-0189
9/23/2020 12:40 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

SOAH DOCKET NO. 454-21-0189.C
TDI ENFORCEMENT FILE NO. 17145

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

JUSTIN EUGENE BARHAM,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

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 **Thursday, January 7, 2020, 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.

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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 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
(512) 490-1020 (Fax)
Sydney.moore@tdi.texas.gov

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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 "eFiling" 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.

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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

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Notice of Hearing
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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 electronic mail and by certified mail, return receipt requested, on this 23rd day of September, 2020 to:

Justin Eugene Barham
[REDACTED]
La Porte, Texas 77571-7019

Via CM/RRR No.: ~~9214 8901 9403 8321 6435 68~~

Via email: [REDACTED]



Sydney Moore



SOAH DOCKET NO. 454-_____
TDI ENFORCEMENT FILE NO. 17145

TEXAS DEPARTMENT OF INSURANCE,

Petitioner

v.

JUSTIN EUGENE BARHAM,

Respondent

BEFORE THE STATE OFFICE

OF

ADMINISTRATIVE HEARINGS

ORIGINAL PETITION

The Texas Department of Insurance seeks to deny Justin Eugene Barham'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, and 4101.051, 28 TEX. ADMIN. CODE § 1.502; and TEX. OCC. CODE §§ 53.021 – 53.023, and TEX. GOV'T CODE §§ 2001.051-2001.178.

Factual Allegations

License Application

1. On May 29, 2018, Justin Eugene Barham (Barham) applied for an Adjuster All Lines license to be issued by the Texas Department of Insurance (TDI).
2. On August 16, 2018, TDI proposed to deny Barham's application based on his criminal history. Barham appealed that decision and made a written request for a hearing on September 6, 2018.

Criminal History and Applicant Misconduct

3. On June 2, 2014, Barham pled nolo contendere to the offense of False Statement to a Peace Officer and was sentenced to six (6) months of deferred adjudication.

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As part of the plea bargain agreement Barham surrendered his peace officer license. Barham was discharged from supervision on December 4, 2014.

4. On or about November 9, 2011, while serving as a licensed peace officer, Barham assisted another licensed peace officer in planting a controlled substance on an innocent party.

Legal Allegations

5. Barham has engaged in fraudulent or dishonest acts or practices as contemplated by TEX. INS. CODE § 4005.101(b)(5) and 28 TEX. ADMIN. CODE § 1.502(d).
6. Pursuant to TEX. OCC. CODE § 53.021-53.022, the department considers Barham to have been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation, as contemplated by 28 TEX. ADMIN. CODE § 1.502(d).
7. Barham committed an offense that TDI considers to be of such serious nature that it is of prime importance in determining fitness for licensure or authorization, as contemplated by 28 TEX. ADMIN. CODE § 1.502(e)(1).
8. Department guidelines, 28 TEX. ADMIN. CODE § 1.502(c)-(e), emphasize that TDI:
 - a. considers it very important that applicants be honest, trustworthy, and reliable;
 - b. may refuse to issue an original license if the department determines that the applicant has committed a felony or has engaged in fraudulent or dishonest activity that directly relates to the duties and responsibilities of the licensed occupation; and
 - c. considers any offense for which fraud, dishonesty, or deceit is an essential element, to be of such a serious nature that it is of prime importance when determining fitness for licensure. 28 TEX. ADMIN. CODE § 1.502(e)(4)(H).

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 Justin Eugene Barham's license application 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.

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

2020-6531



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: 09/23/2020
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 0024 2966 55



moore/17145



Firm Mailing Book For Accountable Mail

2020-6531

Name and Address of Sender

MC 110-1A D Moreno
Texas Department of Insurance
333 Guadalupe St
Austin TX 78701

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

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 Restricted Delivery

USPS Tracking/Article Number

1. 9214 8901 9403 8321 6435 68

moore/17145

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

JUSTIN EUGENE BARHAM
LA PORTE TX 77571-7019

Table with columns: Postage, (Extra Service) Fee, Handling Charge, Actual Value, Insured Value, Due Sender if COD, ASR Fee, ASRD Fee, RD Fee, RR Fee, SC Fee, SCRD Fee, SH Fee. Includes a 'RECEIVED' stamp and a circular postmark.

Postmaster, Per (Name of receiving employee)

Handwritten signature

Total Number of Pieces Listed by Sender: 1

Total Number of Pieces Received at Post Office: 1