

No. 4567

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: JUL 08 2016

Subject Considered:

ABELINA HERRERA
7028 England Street
Houston, Texas 77021

DEFAULT ORDER
SOAH DOCKET NO. 454-16-4439.C
TDI ENFORCEMENT FILE NO. 7894

General remarks and official action taken:

The commissioner of insurance considers disciplinary action against Abelina Herrera.

Findings of Fact

1. Abelina Herrera, individual identification no. 981586, has held a general lines agent license with a property and casualty qualification issued by the department since June 28, 2011.
2. The last known address Herrera provided in writing to the department was 7028 England Street, Houston, Texas 77021.
3. On June 2, 2016, the department sent a notice of hearing to Herrera's last known address and to an e-mail address Herrera had previously used to communicate with the department.
4. Herrera failed to file a written response to the notice of hearing within 20 days of the date the notice of hearing was mailed.
5. Herrera has done the business of insurance under the assumed name "Abelina Herrera Insurance Agency." She registered this assumed name with Harris County, Texas on June 20, 2011. She failed to register this assumed name with the department and failed to notify the department of all the business addresses from which she conducted the business of insurance.

6. Herrera entered into a contract with Western Surety Company, a subsidiary of CNA Surety, to solicit and sell surety bonds. The contract required her to forward bond premiums she received to the surety company.
7. Herrera failed to forward \$706.60 that she collected from policyholders as payment for certificate of title surety bonds to Western Surety.
8. TDI's records show Herrera has not completed a single hour of continuing education since the initiation of her license. Thus, she failed to complete the required 30 hours of continuing education during her 2011 to 2013 and her 2013 to 2015 reporting periods.
9. TDI made repeated, written requests for information to Herrera regarding issues related to this case. Herrera failed to respond within 15 days of receiving these requests or to send written requests for more time to respond.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, and 4051.051; and TEX. GOV'T CODE §§ 2001.051-2001.178.
2. TEX. GOV'T CODE § 2001.056; TEX. INS. CODE § 82.055; and 28 TEX. ADMIN. CODE §§ 1.47, 1.88, and 1.89 give the commissioner authority to dispose of this case informally.
3. Based on 28 TEX. ADMIN. CODE § 19.906, Herrera's last known address is presumed to be 7028 England Street, Houston, Texas 77021.
4. TDI sent a notice of hearing to Herrera's last known addresses as required by 28 TEX. ADMIN. CODE §§ 1.28(c) and 1.88(c), 1 TEX. ADMIN. CODE § 155.401, and TEX. GOV'T CODE Ch. 2001.
5. The allegations in the notice of hearing, set out as findings of fact nos. 1 and 5-9, are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.
6. Herrera failed to furnish the department with a certification identifying any and all offices from which she conducted an insurance agency business and showing any and all assumed names which she utilized in doing an insurance agency business, in violation of 28 TEX. ADMIN. CODE § 19.902.
7. Herrera has misappropriated, converted to her own use, or illegally withheld money belonging to an insurer, as contemplated by TEX. INS. CODE § 4005.101(b)(4).
8. Herrera failed to complete the required number of continuing education hours during two reporting periods, in violation of TEX. INS. CODE §§ 4004.051 as effective as of April 1, 2005; 4004.053 as effective as of June 19, 2009; and 4005.054.

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COMMISSIONER'S ORDER

Abelina Herrera

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9. Herrera failed to respond not later than the 15th day after receiving an inquiry in writing from the department, as required by TEX. INS. CODE § 38.001.
10. Herrera willfully violated an insurance law of this state, as contemplated by TEX. INS. CODE § 4005.101(b)(1).

The commissioner of insurance revokes Abelina Herrera's general lines agent license with a property and casualty qualification.

The commissioner further orders Abelina Herrera to pay a \$3,000 administrative penalty within 30 days from the date of this order. The administrative penalty must be paid by cashier's check or money order made payable to the "State of Texas." Mail the administrative penalty to the Texas Department of Insurance, Attn: Catherine Bell, or her successor, Enforcement Section, MC 110-1A, P.O. Box 149104, Austin, Texas 78714-9104.



David C. Mattax
Commissioner of Insurance

Affidavit

State of Texas §
County of Travis §

Before me, the undersigned authority, personally appeared the affiant, 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.

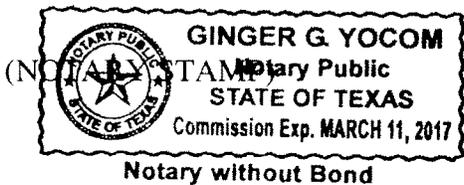
I have reviewed TDI’s records concerning Abelina Herrera. I have confirmed that:

- a. 7028 England Street, Houston, Texas 77021 is the last mailing address Abelina Herrera provided to the department in writing.
- b. The file maintained by the Enforcement Section of the Compliance Division contains a notice of hearing dated June 2, 2016, filed with the State Office of Administrative Hearings.
- c. A certified letter, return receipt requested, and a first class mailing, each containing a notice of hearing addressed to Herrera’s last known address, were deposited in the United States mail.

Copies of the first class and certified mail logs maintained by the Enforcement Section are attached as Exhibits A and B.”

Mary Ruiz
Affiant

SWORN TO AND SUBSCRIBED before me on July 5, 2016



Ginger G. Yocom
Signature of Notary Public

