

No. 2019 - 5852

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

Date: JAN 25 2019

Subject Considered:

Pursuit of Excellence – Texas 2, LLC
10440 N Central Expy Ste 1250
Dallas, Texas 75231-2296

Default Order
SOAH Docket No. 454-19-1609.C
TDI Enforcement File No. 16865

General remarks and official action taken:

The subject of this order is whether disciplinary action should be taken against Pursuit of Excellence – Texas 2, LLC.

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

Findings of Fact

Failure to Respond to Notice of Hearing

1. On December 14, 2018, the Texas Department of Insurance filed a Notice of Hearing, attached as Exhibit A, with the State Office of Administrative Hearings.
2. The department's factual allegations set out in the attached Notice of Hearing are incorporated in this order as findings of fact.
3. The department sent the Notice of Hearing to Respondent's last known address provided in writing to the department 10440 N Central Expy Ste 1250, Dallas, Texas 75231-2296. Notice was 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 was mailed.

Conclusions of Law

1. The commissioner has jurisdiction pursuant to Texas law, including TEX. INS. CODE §§ 82.051-82.055, 4151.051, 4151.056, 4151.205, 4151.206, 4151.212, 4151.301-4151.309; TEX. GOV'T CODE §§ 2001.051-2001.178; and 28 TEX. ADMIN. CODE §§ 7.1601, 7.1603, and 7.1609.
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 are incorporated in this order and deemed admitted as true pursuant to 28 TEX. ADMIN. CODE §1.89.

Order

It is ordered that Pursuit of Excellence – Texas 2, LLC's third-party administrator certificate of authority is revoked.

Kent C. Sullivan
Commissioner of Insurance

By: 

 Doug Slape
 Chief Deputy Commissioner
 Commissioner's Order No. 2018-5528

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 Pursuit of Excellence – Texas 2, LLC. I have confirmed that:

- a. The last mailing address provided to the department in writing by Pursuit of Excellence – Texas 2, LLC is 10440 N Central Expy Ste 1250, Dallas, Texas 75231-2296.
- b. The file maintained by the Enforcement Section of the Legal and Enforcement Division contains a Notice of Hearing dated December 14, 2018, which was filed with the State Office of Administrative Hearings.
- c. On November 26, 2018, a Notice of Hearing addressed to Pursuit of Excellence – Texas 2, LLC was mailed first-class and certified, return receipt requested, to its last known address: 10440 N Central Expy Ste 1250, Dallas, Texas 75231-2296.

Copies of the first-class mail log and certified mail log maintained by the Enforcement Section are attached as Exhibit B and Exhibit C, respectively."

Mary Ruiz

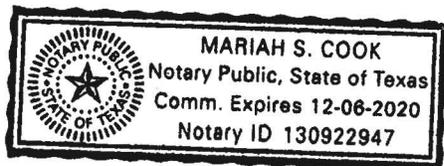
Affiant

SWORN TO AND SUBSCRIBED before me on January 8th, 2019.

(NOTARY SEAL)

Mariah S. Cook
Signature of Notary Public

MARIAH S. COOK
Printed Name of Notary Public



SOAH DOCKET NO. 454-19-1609.C
TDI ENFORCEMENT FILE NO. 16865

TEXAS DEPARTMENT OF INSURANCE,

BEFORE THE STATE OFFICE

Petitioner

OF

v.

PURSUIT OF EXCELLENCE – TEXAS 2, LLC,

ADMINISTRATIVE HEARINGS

Respondent

Notice of Hearing

The Texas Department of Insurance is seeking disciplinary action against you. A public hearing will be held before an Administrative Law Judge on Tuesday, February 19, 2019, 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.

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.

The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 38.001, 82.051-82.055, 4151.051, 4151.056, 4151.205, 4151.206, 4151.212, 4151.301-4151.309; TEX. GOV'T CODE §§ 2001.051-2001.178; and 28 TEX. ADMIN. CODE §§ 7.1601, 7.1603, and 7.1609.

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

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, 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, 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, MC113-2A
P. O. Box 149104
Austin, Texas 78714-9104
(512) 490-1064 (Fax)
chiefclerk@tdi.texas.gov; and
- (3) Jeannie Ricketts
Staff Attorney
Texas Department of Insurance
Enforcement Section, MC110-1A
P.O. Box 149104

Austin, Texas 78714-9104
(512) 490-1020 (Fax)
jeannie.ricketts@tdi.texas.gov

Factual Allegations

1. On February 18, 2014, TDI issued Pursuit of Excellence – Texas 2, LLC third party administrator (TPA) certificate of authority no. 13764828.
2. TPAs are required to file annual reports accompanied by a non-refundable \$200 fee not later than June 30th of each year.
3. Pursuit of Excellence – Texas 2, LLC failed to timely submit its annual TPA reports and associated \$200 filing fees for the years 2014, 2015, and 2016.
4. On June 25, 2018, Pursuit of Excellence – Texas 2, LLC paid its outstanding filing fees and its 2017 filing fee but submitted incomplete TPA annual report information for the years 2014 through 2017.
5. Pursuit of Excellence – Texas 2, LLC has yet to submit complete annual report information for the years 2014 through 2017.
6. On November 12, 2018, and November 28, 2018, TDI sent Pursuit of Excellence – Texas 2, LLC request for information letters, pursuant to Tex. Ins. Code § 38.001. Pursuit of Excellence – Texas 2, LLC did not respond to these requests for information within the statutory timeframe.

Legal Allegations

1. Pursuit of Excellence – Texas 2, LLC failed to timely file annual TPA reports by June 30th on a form prescribed by the commissioner, in violation of TEX. INS. CODE §§ 4151.205 and 4151.301(14), and 28 TEX. ADMIN. CODE § 7.1609.
2. Pursuit of Excellence – Texas 2, LLC failed to timely pay the annual \$200 TPA filing fee in violation of TEX. INS. CODE § 4151.206(a)(3) and 28 TEX. ADMIN. CODE § 7.1609(a).

3. Pursuit of Excellence – Texas 2, LLC failed to maintain at all times the qualifications for a certificate of authority, as required by TEX. INS. CODE § 4151.212 and 28 TEX. ADMIN. CODE § 7.1607(e).
4. Pursuit of Excellence – Texas 2, LLC has willfully violated an insurance law of this state, as contemplated by TEX. INS. CODE § 4151.301(1).
5. Pursuit of Excellence – Texas 2, LLC has willfully violated a commissioner rule, as contemplated by TEX. INS. CODE § 4151.301(10).
6. Pursuit of Excellence – Texas 2, LLC violated TEX. INS. CODE § 38.001 by failing to timely respond to requests for information.

Relief Sought

If one or more of the above allegations is found to be true, the commissioner may enter an order revoking your license, ordering you to cease and desist from certain activity, and/or imposing an administrative penalty, restitution, and additional sanctions. You have the right to appear at this hearing and be represented by an attorney. Please address any questions and correspondence to the undersigned counsel at the address or telephone number below.

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.

Sincerely,



Jeannie Ricketts

Staff Attorney

State Bar No. 24041774
Texas Department of Insurance
Legal and Enforcement Division, Enforcement Section, MC110-1A
P.O. Box 149104
Austin, Texas 78714-9104
(512) 676-6339 (Direct)
(512) 490-1020 (Fax)
jeannie.ricketts@tdi.texas.gov

cc: Elaine Cabrera, Program Specialist, Company Licensing and Registration Office
Christian Hertzberg, Assist. Director, Company Licensing and Registration Office
Beverly Rosendahl, Director, Life, Health Litigation Office, Enforcement Section

Certificate of Service

I, Jeannie Ricketts, certify that a true and correct copy of this *Notice of Hearing* was sent by regular, first-class mail and by certified mail, return receipt requested, on this 14th day of December 2018, to:

Ms. Marie Diaz
Pursuit of Excellence – Texas 2, LLC
10440 N Central Expy Ste 1250
Dallas, Texas 75231-2296

Via CM/RRR No.: 9214 8901 9403 8376
4285 92

maried@poehr.com
maried@pursuitofexcellenceinc.com

Via Email


Jeannie Ricketts



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
(if issued as an international certificate of mailing or for additional copies of this receipt).
Postmark with Date of Receipt.

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	SH Fee	
1. 9214 8901 9403 8375 6247 28	MS MARIE DIAZ PURSUIT OF EXCELLENCE TEXAS 2 LLC 10440 N CENTRAL EXPRESSWAY SUITE 1250 DALLAS TX 75231-2296	0.50	3.45	Handling Charge - if Registered and over \$50,000 in value							1.50				
RICKETTS/16865															

RECEIVED
 NOV 30 2018
TDI - ENFORCEMENT

GME WINDOM
 NOV 28 2018
 AUSTIN TX 78710

Total Number of Pieces Received at Post Office: _____
 Total Number of Pieces Received at Post Office: _____
 Postmaster's Name (Name of receiving employee): _____

EXHIBIT
C

2019-5852

2019- 5852



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: 11/28/2018

Shipped From:

Name: MC 110-1A M RUIZ

Address: 333 GUADALIPE 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.

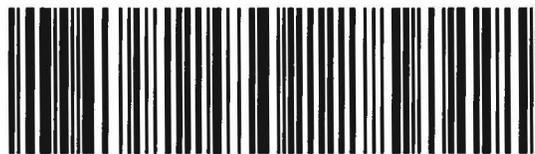
B. USPS Action

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 0011 4733 42

RICKETTS/16865

