

No. **2021-6666**

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

Date: 01/26/2021

Subject Considered:

Texas Department of Insurance

v.

Cedric Tramaine Ledet

SOAH Docket No. 454-21-0511.C

General remarks and official action taken:

The subject of this order is the request by Cedric Tramaine Ledet that the Texas Department of Insurance (TDI) set aside the default judgment previously issued in this matter and that a new hearing be set to consider his application for an adjuster license.

Background

On December 22, 2020, Commissioner's Order No. 2020-6624 was issued. The Order was a default order denying Mr. Ledet's application for an adjuster license. The Order was issued on the grounds that Mr. Ledet failed to respond to a notice of a contested case hearing seeking to deny his application.

Mr. Ledet received notice of the default order on December 22, 2020, and on the same day he emailed the TDI Enforcement Division attorney assigned to his case and informed her that he had mailed to the State Office of Administrative Hearings (SOAH) a response to the notice of hearing, and that he received from SOAH a letter indicating his hearing would be held via Zoom. In his email, Mr. Ledet requested a rehearing.

Discussion

A motion for rehearing in a contested case must be filed by a party not later than the 25th day after the date the order is signed, unless the time for filing the motion has been extended pursuant to Government Code § 2001.146. Under Government Code § 2001.146(e), a state agency is authorized to extend the time for filing a motion for

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rehearing provided that the agency extends the time not later than the 10th day after the date the period for filing a motion for rehearing expires.

Under 28 Tex. Admin. Code § 1.89(d), a motion to set aside a default order and reopen the record is to be granted "if the respondent establishes that the failure to file a written response or to attend the hearing was neither intentional nor the result of conscious indifference, and that such failure was due to a mistake or accident."

In the email sent to the assigned TDI Enforcement attorney, Mr. Ledet informed TDI that he did in fact mail a response to the notice of hearing. Mr. Ledet noted the address to which he sent his response, and he stated that he received a letter from SOAH informing him that a hearing would be held via Zoom. However, the TDI Chief Clerk's Office did not receive Mr. Ledet's email until January 22, 2021, several days after the deadline prescribed in Government Code § 2001.146(a).

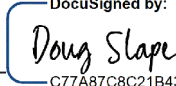
On January 22, 2021, the assigned TDI Enforcement attorney filed with the TDI Chief Clerk's Office a reply to Mr. Ledet's email, styled as "TDI's Response to Respondent's Motion to Set Aside Default Judgement and Motion for Rehearing." The assigned attorney indicated that the TDI Enforcement Division did not oppose Mr. Ledet's request.

Based on the fact that Mr. Ledet alleges that he did mail a timely response to the notice of hearing, and that his request for a rehearing is not opposed, a rehearing is warranted.

Order

The timeframe to file a motion for rehearing in this matter is extended, the default judgment ordered by Commissioner's Order No. 2020-6624 is set aside, and the record for SOAH Docket No. 454-21-0511.C is to be reopened and a new hearing is to be set.

Commissioner of Insurance

By:  _____
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Doug Slape
Chief Deputy Commissioner
Tex. Gov't Code § 601.002
Commissioner's Order No. 2018-5528

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Recommended and reviewed by:

DocuSigned by:

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James Person, General Counsel

DocuSigned by:

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Justin Beam, Assistant General Counsel