

No. **2022-7386**

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

Date: 07/19/2022

Subject Considered:

Texas Department of Insurance

v.

Gregory Nauls

SOAH Docket No. 454-21-2779.C

ORDER DENYING REQUEST FOR NEW HEARING

General remarks and official action taken:

The subject of this order is the request for a new hearing filed by Gregory Nauls. This order denies the request.

Background

On May 26, 2022, Commissioner's Order No. 2022-7330 was issued. The order denies Mr. Nauls' application for a general lines agent license with a qualification in life, accident, health, and HMO. The order was issued following Mr. Nauls' failure to appear for a hearing on the merits, scheduled via vidoconference.

On May 27, 2022, Mr. Nauls submitted a request for a new hearing. On June 2, 2022, Enforcement staff (Staff) for the Texas Department of Insurance submitted a reply to Mr. Nauls' request.

Discussion

Under 28 Tex. Admin. Code § 1.89, after informal disposition of a contested case by default, a motion by the respondent to set aside the default order and reopen the record will 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.

ORDER DENYING REQUEST FOR NEW HEARING
TDI v. Gregory Nauls
SOAH Docket No. 454-21-2779.C
Page 2 of 3

Under Tex. Gov't Code § 2001.146, a motion for rehearing in a contested case may be granted if the motion identifies with particularity findings of fact or conclusions of law that are the subject of the complaint and any evidentiary or legal ruling claimed to be erroneous. The motion must also state the legal and factual basis for the claimed error. In addition, a motion to set aside the default order and reopen the record is not a motion for rehearing and is not to be considered a substitute for a motion for rehearing. See 28 Tex. Admin. Code § 1.89(d)(2).

In his request for a new hearing, Mr. Nauls says that he was unable to attend the hearing because he did not receive log-in information for it. Mr. Nauls claims that throughout the process he did not receive any correspondence concerning the hearing. He says he updated his contact information, but no documents were mailed or emailed to him.

However, in response to Mr. Nauls' request, Staff submitted information showing that communications were sent to the address and email address Mr. Nauls has on file with the Texas Department of Insurance; Mr. Nauls acknowledged receipt of emails sent to his email address (one of the two email addresses listed in his request for a rehearing); and, prior to the hearing, Mr. Nauls confirmed with Staff that he knew how to access the videoconference for the hearing.

Mr. Nauls does not establish that his failure to attend the hearing was neither intentional nor the result of conscious indifference or due to a mistake or accident. Additionally, he does not identify with particularity findings of fact or conclusions of law or any evidentiary or legal ruling that is alleged to be erroneous or provide a legal and factual basis for a claimed error.

It is unclear whether Mr. Nauls' request for a hearing is made under 28 Tex. Admin. Code § 1.89 or Tex. Gov't Code § 2001.146, but he has failed to meet the requirements under either provision. Because Mr. Nauls failed to satisfy the requirements of 28 Tex. Admin. Code § 1.89 or Tex. Gov't Code § 2001.146, his request is denied.

ORDER DENYING REQUEST FOR NEW HEARING
TDI v. Gregory Nauls
SOAH Docket No. 454-21-2779.C
Page 3 of 3

Order

It is ordered that the request for a new hearing filed by Gregory Nauls is denied.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

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