

No. **2023-8051**

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

Date: 6/28/2023

Subject Considered:

Texas Department of Insurance
v.
James Willie Sutton, Jr., and Shondra Shaunell Sparks

SOAH Docket No. 454-22-2184.C

ORDER ON MOTION FOR REHEARING

General Remarks and Official Action Taken:

The subject of this order is the motion for rehearing filed by James Willie Sutton, Jr., and Shondra Shaunell Sparks (respondents). This order denies the motion.

Background

On May 4, 2023, Commissioner's Order No. 2023-7939 was issued. The order revokes Mr. Sutton's adjuster all lines license and Ms. Sparks' adjuster all lines license and life agent license. The order also orders that the respondents pay restitution, jointly and severally, in the amount of \$11,421.61 to Texas Farmers Insurance Company and provide proof of payment of the restitution to the Texas Department of Insurance (TDI) within 30 days of the date of the order.

On May 24, 2023, the respondents submitted a motion for rehearing in the matter. In their motion for rehearing, the respondents argued that a rehearing is warranted because (1) TDI erred in citing Tex. Ins. Code § 4005.101; (2) during the cross-examination, a witness for TDI said that what the respondents did was within applicable guidelines; (3) an admitted exhibit providing pictorial evidence favorable to the respondents was overlooked and not acknowledged; (4) Farmers did not demand the

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return of funds; and (5) Tex. Ins. Code § 38.001 was not violated, as concluded in the order.

On June 4, 2023, Enforcement staff for TDI submitted a reply to the motion for rehearing. Staff argued that the respondents have continued making and relying on the same unpersuasive arguments. These arguments were contemplated and addressed by the administrative law judge (ALJ), and Commissioner's Order No. 2023-7939 adopted the ALJ's proposed findings of fact and conclusions of law. Therefore, no rehearing is necessary.

Discussion

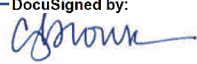
Under Tex. Gov't Code § 2001.146, a motion for rehearing in a contested case may be granted if the motion identifies with particularity findings of fact or conclusions of law that are the subject of the complaint and any evidentiary or legal ruling claimed to be erroneous. The motion must also state the legal and factual basis for the claimed error.

However, the respondents do not identify with particularity findings of fact or conclusions of law that are the subject of their complaint, and the evidentiary and legal rulings they claim to be erroneous merely rehash arguments presented during the hearing and express disagreement with the findings and conclusions.

The respondents fail to comply with the requirements of Government Code § 2001.146 and raise no points that warrant a rehearing.

Order

It is ordered that the motion for rehearing filed by James Willie Sutton, Jr., and Shondra Shaunell Sparks is denied.

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Cassie Brown
Commissioner of Insurance

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Recommended and reviewed by:

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Jessica Barta
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Jessica Barta, General Counsel

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