

No. 2024-8449

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

Date: 1/2/2024

Subject Considered:

Texas Department of Insurance
v.
Ronaldo Camacho

SOAH Docket No. 454-24-02660.C

Order Setting Aside Default Order

General Remarks and Official Action Taken:

The subject of this order is the default judgment issued in Commissioner's Order No. 2023-8324 in the matter of *Texas Department of Insurance v. Ronaldo Camacho*. This order accepts Mr. Camacho's filing responding to the Texas Department of Insurance (TDI) Enforcement staff's allegations against him as a motion to set aside the default order and proceed with a hearing.

Background

On November 6, 2023, TDI issued Commissioner's Order No. 2023-8324, a default order revoking any licenses held by Mr. Camacho.

On November 7, 2023, Enforcement staff filed a notice of nonsuit with the State Office of Administrative Hearings (SOAH) under SOAH's rule at 1 Tex. Admin. Code § 155.503(a). The notice stated that the commissioner had issued a default order and requested that SOAH send a notice to the parties once the matter was dismissed from SOAH's docket.

On November 8, 2023, Mr. Camacho filed with SOAH a handwritten letter responding to the allegations in Enforcement's original petition. Mr. Camacho did not file copies of his response to allegations with Enforcement staff or the TDI Chief Clerk's Office. However, based on the timing of the filing, the letter appears to have been submitted in response to the default order and Enforcement staff's notice of nonsuit.

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Mr. Camacho's letter was followed by two more filings by Enforcement and two orders issued by the SOAH administrative law judge.

Discussion

Under 28 Tex. Admin. Code § 1.88(a), when a contested case has been instituted, a respondent must file a written answer or other pleading within 20 days from the date on which the notice of hearing is provided to the respondent. And under subsection (d) of § 1.88, the failure of a respondent to timely file a written response entitles TDI to remedies outlined in 28 Tex. Admin. Code § 1.89. Section 1.89 states that a respondent's failure to file a written response within 20 days of the mailing of a notice of hearing entitles TDI to seek informal disposition by default from the commissioner as provided in Insurance Code Article 1.10(7)(d) (now codified at Insurance Code § 82.055) and Government Code § 2001.056.

Further, subsection (f)(6) of the Joint Memorandum of Understanding between TDI and the chief administrative law judge of SOAH (the MOU), located in TDI's rules at 28 Tex. Admin. Code § 1.90, provides that if the commissioner informally disposes of a contested case by default as provided by the Insurance Code and the Government Code, the appropriate party *shall* file a notice of nonsuit with SOAH, and SOAH *shall* issue an order withdrawing the case from the SOAH docket. (Emphasis added.)

Section 1.90 was adopted pursuant to Insurance Code Article 1.33B, as added by Chapter 685, §§ 2.01, 73rd Legislature, 1993, and as now codified in Insurance Code § 40.004, which requires the commissioner and the chief administrative law judge of SOAH to adopt by rule a memorandum of understanding that will govern hearings conducted by SOAH under the Insurance Code.

When a matter is initially resolved by default under 28 Tex. Admin. Code §§ 1.88, 1.89, and 1.90, due to a respondent's failure to comply with § 1.88, the respondent may seek relief; under 28 Tex. Admin. Code § 1.89(d), the respondent may file a motion to set aside the default order and reopen the record. Under 28 Tex. Admin. Code § 1.90(e)(3), a motion for rehearing must be filed with the TDI docket clerk.

In this case, Mr. Camacho failed to comply with 28 Tex. Admin. Code § 1.88(a). He did not file an answer to the notice of hearing within 20 days, and therefore defaulted under TDI's rules. Consistent with TDI's rules and in compliance with the MOU, a default order was issued, and Enforcement staff filed a notice of nonsuit so that the administrative law judge would dismiss the matter from SOAH's docket, as required by the MOU. However, the matter was not dismissed from SOAH's docket.

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Mr. Camacho failed to identify his submission to SOAH as a motion to set aside the default order and reopen the record. He also failed to file his submission with the TDI docket clerk. However, after considering the specific details of this matter, TDI has determined that the multiple filings from Enforcement staff and orders from SOAH before and after issuance of Commissioner's Order No. 2023-8324 may have led to confusion. Because of this, TDI has concluded that the default order should be set aside to allow the matter to proceed to hearing at SOAH.

Order

It is ordered that Commissioner's Order No. 2023-8324 is set aside and the matter is reopened for further proceedings.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:

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Jessica Barta, General Counsel

DocuSigned by:

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Justin Beam, Chief Clerk