

No. 2022-7543

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

**Date:** 10/04/2022

**Subject Considered:**

Texas Department of Insurance

v.

Ricardo Huante

SOAH Docket No. 454-21-2920.C

**General remarks and official action taken:**

The subject of this order is Ricardo Huante's application for a general lines life, accident, health, and health maintenance organization (HMO) license. This order denies Mr. Huante's application.

**Background**

After proper notice was given, the above-styled case was heard by an administrative law judge for the State Office of Administrative Hearings. The administrative law judge made and filed a proposal for decision containing a recommendation that the Texas Department of Insurance (TDI) deny Mr. Huante's application. A copy of the proposal for decision is attached as Exhibit A.

TDI adopts the administrative law judge's proposed findings of fact and conclusions of law with changes to Finding of Fact No. 14.

**Legal Authority for Changes to the Proposal for Decision**

The legal authority for the changes to the proposal for decision made in this order is TEX. GOV'T. CODE § 2001.058(e)(3), which provide that "[a] state agency may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the agency determines . . . that a technical error in a finding of fact should be changed."

COMMISSIONER'S ORDER  
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Finding of Fact No. 14

The record indicates that 12 of the 13 counts against Mr. Huante for structuring transactions to evade reporting requirements and aiding and abetting were dismissed.<sup>1</sup> The administrative law judge correctly acknowledged this in Finding of Fact No. 13, but mistakenly stated in Finding of Fact No. 14 that all 13 of those counts were dismissed. Finding of Fact No. 14 is amended to correct that technical error.

**Findings of Fact**

1. Except for Finding of Fact No. 14, the findings of fact contained in Exhibit A are adopted by TDI and incorporated by reference into this order.
2. In place of Finding of Fact No. 14 as contained in Exhibit A, the following finding of fact is adopted:

Mr. Huante was convicted of felony corrupt interference with Internal Revenue laws and was placed on probation for three years. He was ordered to pay \$20,008.00 in restitution, a \$2,000 fine, and a \$100 assessment. Twelve of 13 counts of structuring transactions to evade reporting requirements and aiding and abetting were dismissed.

**Conclusions of Law**

The conclusions of law contained in Exhibit A are adopted by TDI and incorporated by reference into this order.

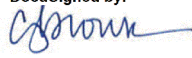
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<sup>1</sup> See Proposal for Decision, pg. 3.

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**Order**

It is ordered that Ricardo Huante's application for a general lines life, accident, health, and HMO license 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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James Kelly, Staff Attorney

**Exhibit A**

SOAH DOCKET NO. 454-21-2920.C

**TEXAS DEPARTMENT OF  
INSURANCE,  
Petitioner**

v.

**RICARDO HUANTE,  
Respondent**

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**BEFORE THE STATE OFFICE**

**OF**

**ADMINISTRATIVE HEARINGS**

**PROPOSAL FOR DECISION**

The staff (Staff) of the Texas Department of Insurance (Department) seeks to deny the application of Ricardo Huante for a general lines life, accident, health, and health maintenance organization (HMO) license based on his criminal history. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends the Department deny Mr. Huante’s license application at this time.

**I. PROCEDURAL HISTORY, NOTICE, AND JURISDICTION**

The hearing in this case was held via Zoom videoconference on November 1, 2021, before State Office of Administrative Hearings (SOAH) ALJ Heather D Hunziker. Staff was represented by staff attorney Casey Seeboth. Mr. Huante represented himself. The hearing concluded that day, and the record closed on November 16, 2021, when the court reporter’s transcript was filed with SOAH. Notice and jurisdiction were not disputed and are set out in the Findings of Fact and Conclusions of Law below.

**II. DISCUSSION**

**A. Background**

Mr. Huante previously served as the owner and operator of H. M. J. (HMJ), a medical insurance billing company that was later known as HMDJ. A 2007-2012 investigation into

Mr. Huante's business practices by the Federal Bureau of Investigation (FBI), Homeland Security Investigations (HSI), and Internal Revenue Service (IRS) revealed a pattern of illegal conduct between 2004 and 2010 involving financial transactions and tax filings.<sup>1</sup> The investigation revealed that Mr. Huante, as sole proprietor of HMJ, reported 2007 gross receipts from HMJ of \$333,573, which was inconsistent with HMJ's bank records for the same period that showed deposits exceeding \$550,000.<sup>2</sup> The FBI/HSI/IRS investigation further revealed that Mr. Huante made withdrawals from HMJ's bank account, sometimes multiple times per day over many days and venues, in a manner so as to avoid exceeding \$10,000 per withdrawal;<sup>3</sup> and that the total amount withdrawn in this manner in a one-year period exceeded \$100,000.<sup>4</sup>

The FBI/HSI/IRS investigation determined that Mr. Huante's filing of a tax return underreporting his gross receipts by over \$200,000 was a corrupt act.<sup>5</sup> The investigation further determined that Mr. Huante was aware of the requirement, under the federal Banking Secrecy Act and regulations promulgated thereunder, that United States banks file a Currency Transaction Report (CTR) for each deposit, withdrawal, exchange of currency, or other payment or transfer involving over \$10,000; and Mr. Huante purposefully avoided withdrawals exceeding \$10,000 because he did not want to fill out a CTR.<sup>6</sup>

On March 19, 2014, Mr. Huante was indicted on one count of corrupt interference with Internal Revenue laws and thirteen counts of structuring transactions to evade reporting requirements and aiding and abetting, for his business practices involving HMJ, in Case No. EP-14-CR-483 in the United States District Court for the Western District of Texas, El Paso Division. Mr. Huante entered into a plea agreement under which he admitted: (1) his

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<sup>1</sup> Staff Ex. 2 at 131.

<sup>2</sup> Staff Ex. 2 at 131.

<sup>3</sup> The investigation lists a specific example period, wherein Mr. Huante withdrew \$13,200 over three days, spread across seven withdrawals from both in-bank tellers and ATMs. Staff Ex. 2 at 131. The indictment details an additional nine-day period, in which Mr. Huante withdrew \$36,250, spread across seventeen withdrawals from in-bank tellers and ATMs. Staff Ex. 1 at 16.

<sup>4</sup> Staff Ex. 2 at 131.

<sup>5</sup> Staff Ex. 2 at 131.

<sup>6</sup> Staff Ex. 2 at 132.

underreporting of HMJ's gross receipts constituted corrupt conduct that impeded the IRS from conducting its responsibilities to administer the Internal Revenue laws; (2) he knew that his bank was legally obligated to report transactions exceeding \$10,000; and (3) his withdrawal activities were structured to evade the reporting requirements, took place over more than twelve months, and involved more than \$100,000.<sup>7</sup> Under the plea agreement, twelve of Mr. Huante's thirteen counts of structuring transactions to evade reporting requirements and aiding and abetting were dismissed in exchange for Mr. Huante's guilty plea to the felony count of corrupt interference with Internal Revenue laws and the only remaining (felony) count of structuring transactions to evade reporting requirements and aiding and abetting.<sup>8</sup>

Ultimately, Mr. Huante was convicted of felony corrupt interference with Internal Revenue laws and was placed on probation for three years.<sup>9</sup> He was ordered to pay \$20,008.00 in restitution, a \$2,000 fine, and a \$100 assessment.<sup>10</sup>

On February 25, 2021, Mr. Huante applied for a general lines life, accident, health, and HMO license with the Department. On March 26, 2021, Staff proposed to deny his application based on his criminal history. As bases for the Department's authority to deny Mr. Huante's license application, Staff alleged that Mr. Huante has: (1) engaged in fraudulent or dishonest acts or practices,<sup>11</sup> and (2) been convicted of a felony.<sup>12</sup> Mr. Huante timely requested a hearing.<sup>13</sup>

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<sup>7</sup> Staff Ex. 2 at 132.

<sup>8</sup> Staff Ex. 2 at 119.

<sup>9</sup> Staff Ex. 1 at 21-22.

<sup>10</sup> Staff Ex. 1 at 23.

<sup>11</sup> Tex. Ins. Code § 4005.101(b)(5).

<sup>12</sup> Tex. Ins. Code § 4005.101(b)(8).

<sup>13</sup> Staff Ex. 1 at 8.

**B. Applicable Law**

The Department considers it very important that license-holders be honest, trustworthy, and reliable,<sup>14</sup> and evaluates an applicant's criminal history and other conduct to determine whether the applicant possesses those qualities. The Department may deny a license to an applicant who has engaged in fraudulent or dishonest acts or practices or who has been convicted of a felony.<sup>15</sup>

To guide its decision-making when considering an applicant's criminal history, the Department has established guidelines that identify certain crimes it considers to be of such a serious nature that they are of prime importance in determining fitness for licensure, including offenses involving fraud, dishonesty, or deceit as an essential element.<sup>16</sup> The Department has determined that the crimes it considers to be of prime importance are also directly related to the occupations it regulates.<sup>17</sup>

In deciding whether to deny a license based on a person's criminal history, the Department weighs the factors in Texas Occupations Code §§ 53.022 and .023 and determines whether the applicant is fit to perform the duties and discharge the responsibilities of the licensed occupation despite the criminal offense.<sup>18</sup> The factors in Texas Occupations Code § 53.022 address whether the person's criminal offense directly relates to the occupation, and those factors are:

- (1) the nature and seriousness of the crime;
- (2) the relationship of the crime to the purposes for requiring a license to engage in the occupation;

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<sup>14</sup> 28 Tex. Admin. Code § 1.502(c).

<sup>15</sup> Tex. Ins. Code § 4005.101(b)(5), (8).

<sup>16</sup> 28 Tex. Admin. Code § 1.502(e)(1).

<sup>17</sup> 28 Tex. Admin. Code § 1.502(e); *see also* Tex. Occ. Code § 53.025.

<sup>18</sup> 28 Tex. Admin. Code § 1.502(h).

- (3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved;
- (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation; and
- (5) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.

As additional factors for the Department to consider after determining a criminal offense directly relates to the occupation, Texas Occupations Code § 53.023(a) lists:

- (1) the extent and nature of the person's past criminal activity;
- (2) the age of the person when the crime was committed;
- (3) the amount of time that has elapsed since the person's last criminal activity;
- (4) the conduct and work activity of the person before and after the criminal activity;
- (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;
- (6) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
- (7) other evidence of the person's fitness, including letters of recommendation.<sup>19</sup>

It is the applicant's own responsibility, to the extent possible, to obtain and provide to the Department the applicant's evidence of fitness discussed above.<sup>20</sup> Additionally, an applicant shall furnish proof to the Department that the applicant has: (1) maintained a record of steady employment; (2) supported the applicant's dependents, where applicable; (3) maintained a record of good conduct; and (4) paid all outstanding court costs, supervision fees, fines, and restitution

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<sup>19</sup> Tex. Occ. Code § 53.023(a).

<sup>20</sup> Tex. Occ. Code § 53.023(b); 28 Tex. Admin. Code § 1.502(h)(3).



ordered in any criminal case in which the applicant has been convicted.<sup>21</sup> The Department will not issue a license unless, when viewed in the light of the regulated occupation, those mitigating factors outweigh the serious nature of the applicant's criminal offense and fraudulent or dishonest conduct.<sup>22</sup>

Staff bears the burden of proving its grounds for denying Mr. Huante's license application; but Mr. Huante has the burden to prove his fitness to be licensed despite his criminal history and fraudulent or dishonest conduct.<sup>23</sup> The burden of proof is by a preponderance of the evidence.<sup>24</sup>

### **C. Evidence**

Mr. Huante offered two exhibits,<sup>25</sup> which were admitted into evidence except for Staff Exhibit 1, pages 28-34, 36-42, 57-63, 65-69, 77, 82, 88, and 91-95, to which the ALJ sustained objections of authenticity, relevance, and hearsay. Mr. Huante testified on his own behalf. Staff offered the testimony of Jodie Delgado, Manager of Administrative Review for the Department's Industrial Licensing Section, but no exhibits.

#### **1. Testimony of Ms. Delgado**

Ms. Delgado is the Department's Manager of Administrative Review in its Industrial Licensing Section. She reviews licensing applications, including applicants' criminal histories. She explained the application review process and confirmed that Mr. Huante applied for a general lines life, accident, health, and HMO license on February 25, 2021.<sup>26</sup> Addressing the questions in the application that concern the applicant's criminal history, Ms. Delgado explained that the

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<sup>21</sup> 28 Tex. Admin. Code § 1.502(h)(2)(G).

<sup>22</sup> 28 Tex. Admin. Code § 1.502(f).

<sup>23</sup> Tex. Ins. Code § 4005.101(b); 1 Tex. Admin. Code § 155.427; 28 Tex. Admin. Code § 1.502(h)(3).

<sup>24</sup> *Granek v. Texas St. Bd. of Med. Examn'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

<sup>25</sup> The exhibits Mr. Huante offered had been filed by Staff, so they are referred to as Staff Exhibits 1 and 2. Staff Exhibit 1 consists of numerous documents, compiled.

<sup>26</sup> Staff Ex. 1 at 2.

Department asks these questions because it needs licensed individuals to be honest and trustworthy. She stated that the Department followed up with Mr. Huante for more information when he answered “yes” to the question about his criminal history. Ms. Delgado testified that, during this further inquiry, she learned of Mr. Huante’s conviction for felony corrupt interference with IRS laws, which she reduced to providing incorrect information on his tax returns and labeled as a dishonest practice. She also pointed out that Mr. Huante was accused of intentionally concealing information from the IRS.

Ms. Delgado explained that insurance agents solicit insurance, provide guidance about insurance, and have regular opportunities to collect clients’ money; and they must report the policy for which they are collecting and deposit that money into the correct accounts to place insurance. Thus, she explained, recordkeeping is an important insurance agent duty.

Ms. Delgado stated that due to Mr. Huante’s criminal history, he submitted additional information as part of the application. After review, Staff proposed to deny Mr. Huante’s application based on his criminal history.

Ms. Delgado evaluated Mr. Huante’s statement of explanation of his crimes,<sup>27</sup> stating that whether he received a tax refund is not necessarily connected with whether he committed a crime; and emphasizing that the documents she reviewed concerned criminal, not civil, charges. She explained that the Department does not re-examine the facts of a criminal case or pass judgment on it, they just review it for their licensing determination. She also noted that Mr. Huante provided documentation that he had satisfied his probation and restitution requirements.<sup>28</sup>

Turning to the additional factors for consideration, Ms. Delgado noted that Mr. Huante’s crime was dishonest in nature and was in the same industry as the license he applied for—although the crime concerned accounting and not insurance. Similarly, she noted that Mr. Huante was an adult at the time of the crimes, so they were not the result of youthful indiscretion; and that

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<sup>27</sup> Staff Ex. 1 at 50.

<sup>28</sup> See Staff Ex. 1 at 36.

Mr. Huante was a law enforcement officer when the crimes occurred, making it worse, in her opinion, because he should have known better. She noted that the Department considered the proximity in time of the offense and the application, and that in this case Mr. Huante was released from probation in 2018 and submitted his application with the Department in February 2021. Therefore, at the time the application was received, only three years had elapsed since Mr. Huante's probation ended.

## 2. Testimony of Mr. Huante

Mr. Huante explained that his business, first called HMJ and then HMDJ, was a medical billing business and a sole proprietorship not operated by a limited liability company or other corporate entity. He said his role was to collect payments from medical providers in Ciudad Juarez, Mexico, and give them to insurance companies in the United States; providers would deposit funds into his bank account and he would withdraw the funds.

Mr. Huante testified that his tax returns were accurate but there was a discrepancy in the percentages; his plea deal was based on misinformation he claims to have received from his attorney; and he appealed the conviction once he became aware of being misinformed, but the statute of limitations prevented his appeal. He also testified that he has applied for a presidential pardon and he sent the Department documents related to his applications for pardon and for early release from probation, including letters of recommendation and character references.<sup>29</sup> Mr. Huante further testified that, as he explained in his written statement to the Department, the IRS pursued his charges as a civil—not criminal—case and came to the conclusion that he was actually due a refund, which was issued in 2018.

Mr. Huante admitted that, for 2007, his gross receipts were around \$550,000 but he only reported about \$150,000 to the IRS. He also admitted that he had made a practice of withdrawing sums smaller than the \$10,000 Bank Secrecy Act cap multiple times per day, from bank tellers and ATMs; and he explained that he aggregated these smaller sums to pay providers' insurance.

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<sup>29</sup> Staff Ex. 1 at 37-42.

Mr. Huante explained that he had used a cash basis but had no intent to conceal—the payments were received as checks and withdrawn by check, which is traceable. Mr. Huante admitted that he had been convicted of corrupt interference; and he agreed that he committed the acts which were the basis of that crime. For the other crimes charged, he said that his actions did not meet the elements that formed the bases of those crimes.

On cross-examination, Mr. Huante conceded that he had worked as a police officer; but he clarified that he had never dealt with tax law or federal court and it was not familiar to him. He agreed that he paid the more than \$20,000 in restitution that the court had ordered him to pay; and he asserted that he had turned himself in.

In closing, Mr. Huante said there was no pattern of dishonesty and no previous or further history of crime. He argued that he was not attempting to be dishonest, but he should have hired an accountant. Mr. Huante requested that he be allowed to become licensed; and he stated that, when he previously held the license, he never attempted to be dishonest. Mr. Huante summarized that he wants the opportunity to work in the insurance industry again.

#### **D. Analysis**

Under Texas Insurance Code § 4005.101(b)(5), the Department may deny a license application if the Department determines that the applicant has engaged in fraudulent or dishonest acts or practices. The Department may also deny a license application if the applicant has been convicted of a felony, as contemplated by Texas Insurance Code § 4005.101(b)(8). Mr. Huante pleaded guilty to structuring transactions to evade reporting requirements, which is a fraudulent or dishonest practice; and elements of insurance were involved. Additionally, Mr. Huante was convicted of felony corrupt interference with Internal Revenue laws.

The ALJ must first determine whether Mr. Huante's felony and/or his fraudulent/dishonest activities directly relate to the duties and responsibilities of the licensed occupation.<sup>30</sup> This

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<sup>30</sup> Tex. Occ. Code § 53.022; 28 Tex. Admin. Code § 1.502(f).

determination requires consideration of the factors set out in Texas Occupations Code § 53.022 and Department Rule 1.502(h)(1). As Ms. Delgado testified, both Mr. Huante's underreporting of his gross receipts to the IRS and his structuring of his transactions to evade reporting requirements were dishonest in nature and were in the same industry as the license he applied for. Additionally, Ms. Delgado testified that recordkeeping and depositing and withdrawing funds are important insurance agent duties. The ALJ concludes that both Mr. Huante's conviction for corrupt interference with Internal Revenue laws and his fraudulent/dishonest structuring of transactions to evade reporting requirements directly relate to the duties and responsibilities of insurance.

The ALJ must next determine whether Mr. Huante presented evidence to demonstrate that his fitness for licensure outweighs the serious nature of his fraudulent or dishonest practices and his criminal offense when viewed in light of his requested licensed occupation.<sup>31</sup> In making this determination the ALJ considers the factors set out in Texas Occupations Code § 53.023 and Rule 1.502(h)(2). While the evidence established that corrupt interference with Internal Revenue laws was Mr. Huante's only criminal conviction, Mr. Huante was between 44-50 years old during the period when he committed the acts constituting the offenses he pleaded guilty to,<sup>32</sup> so they were not acts of youthful indiscretion.

On the other hand, Mr. Huante's resume demonstrates a steady work history.<sup>33</sup> Mr. Huante provided five letters of recommendation in which individuals with personal and professional knowledge of him indicated that he is professional and of good character—although some of the letters appear to have been addressed to his 2018 request for early release from probation, not his fitness for licensure.<sup>34</sup> Additionally, it should be noted that Mr. Huante complied with the terms and conditions of, and completed, his supervision and probation, and was discharged from said supervision and probation early;<sup>35</sup> and, as he testified, he paid the fines and restitution imposed.

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<sup>31</sup> See Tex. Occ. Code § 53.023; 28 Tex. Admin. Code § 1.502(f), (h)(2).

<sup>32</sup> See Staff Ex. 1 at 2, 13-19.

<sup>33</sup> Staff Ex. 1 at 43.

<sup>34</sup> Staff Ex. 1 at 37-42.

<sup>35</sup> Staff Ex. 1 at 35-36.

However, the ALJ must also consider other evidence of Mr. Huante's present fitness that demonstrates Mr. Huante is currently misrepresenting his offenses. In his Statement Regarding Charges submitted to the Department, Mr. Huante stated that the IRS pursued this matter as a civil case;<sup>36</sup> however, as he admitted during his live testimony, he was convicted of a felony crime. Similarly, Mr. Huante's explanation that his use of traceable *checks* is evidence that there was no intention to conceal stands in contrast to his testimony that he made withdrawals *in cash* from ATMs and bank tellers.

Ultimately, the ALJ concludes that the evidence regarding Mr. Huante's current fitness for licensure is not persuasive enough to outweigh the serious nature of his offense and fraudulent/dishonest acts when viewed in light of the potential occupation being licensed. Accordingly, the ALJ recommends that Mr. Huante's license application be denied.

### III. FINDINGS OF FACT

1. On February 25, 2021, Ricardo Huante applied for a general lines life, accident, health, and health maintenance organization (HMO) license with the Texas Department of Insurance (Department).
2. On March 26, 2021, the staff (Staff) of the Department proposed to deny his application based on his criminal history.
3. Mr. Huante requested a hearing to challenge the denial.
4. On August 9, 2021, the State Office of Administrative Hearings (SOAH) Administrative Law Judge (ALJ) issued Order No. 1, which specified that the hearing would be held via the Zoom videoconferencing platform and provided the applicable log-in information.
5. On July 21, 2021, Staff issued a notice of hearing which attached and incorporated by reference its petition in the case.
6. The notice of hearing, petition, and SOAH Order No. 1 contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and the factual matters asserted.

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<sup>36</sup> Staff Ex. 1 at 50.

7. The hearing in this case was held via Zoom videoconference on November 1, 2021, before SOAH ALJ Heather D Hunziker. Staff was represented by staff attorney Casey Seeboth. Mr. Huante represented himself. The hearing concluded that day, and the record closed on November 16, 2021, when the court reporter's transcript was filed with SOAH.
8. Mr. Huante previously served as the owner and operator of H. M. J. (HMJ), a medical insurance billing company that was also known as HMDJ.
9. An investigation into Mr. Huante's business practices by the Federal Bureau of Investigation, Homeland Security Investigations, and Internal Revenue Service (IRS) revealed a pattern of illegal conduct between 2004 and 2010 involving financial transactions and tax filings.
10. The federal investigation determined that Mr. Huante, as sole proprietor of HMJ, corruptly underreported HMJ's 2007 gross receipts—reporting \$333,573 instead of the \$550,000 indicated by HMJ's bank records—and for years made withdrawals from HMJ's bank account in a manner so as to avoid exceeding \$10,000 per withdrawal, with the total amount withdrawn in this manner in a single-year period exceeding \$100,000.
11. The federal investigation also determined that Mr. Huante was aware of the requirement, under the federal Banking Secrecy Act and regulations promulgated thereunder, for United States banks to file a Currency Transaction Report for each deposit, withdrawal, exchange of currency, or other payment or transfer involving over \$10,000; and that Mr. Huante purposefully avoided withdrawals exceeding \$10,000 to avoid the requirement.
12. March 19, 2014, Mr. Huante was indicted on one count of corrupt interference with Internal Revenue laws and thirteen counts of structuring transactions to evade reporting requirements and aiding and abetting, for his business practices involving HMJ, in Case No. EP 14-CR-483 in the United States District Court for the Western District of Texas, El Paso Division.
13. Mr. Huante entered into a plea agreement under which he admitted: (1) his underreporting of HMJ's gross receipts constituted corrupt conduct that impeded the IRS from conducting its responsibilities to administer the Internal Revenue laws; (2) he knew that his bank was legally obligated to report transactions exceeding \$10,000; and (3) his withdrawal activities were structured to evade the reporting requirements, took place over more than twelve months, and involved more than \$100,000. Under the plea agreement, twelve of the thirteen counts against Mr. Huante for structuring transactions to evade reporting requirements and aiding and abetting were dismissed, in exchange for Mr. Huante's plea of guilty to felony corrupt interference with Internal Revenue laws and one felony count of structuring transactions to evade reporting requirements and aiding and abetting.
14. Mr. Huante was convicted of felony corrupt interference with Internal Revenue laws and was placed on probation for three years. He was ordered to pay \$20,008.00 in restitution, a \$2,000 fine, and a \$100 assessment. Thirteen counts of structuring transactions to evade reporting requirements and aiding and abetting were dismissed.

15. Mr. Huante has complied with all conditions of his supervision, paid the restitution ordered by the court, and was granted early release from probation on March 5, 2018.
16. In committing corrupt interference with Internal Revenue laws and structuring transactions to evade reporting requirements, Mr. Huante engaged in fraudulent or dishonest acts or practices.
17. In his Statement Regarding Charges submitted to the Department, Mr. Huante dishonestly stated that the IRS pursued this matter as a civil case.
18. In his testimony, Mr. Huante dishonestly stated that he withdrew payments by check—as evidence that he had no intention to conceal his transactions—before testifying that he made withdrawals *in cash* from ATMs and bank tellers.
19. Corrupt interference with Internal Revenue laws and structuring transactions to evade reporting requirements involve fraudulent conduct or dishonesty.
20. Mr. Huante has no other criminal history.
21. Mr. Huante was 44-50 years old when he committed the acts constituting the offenses he pleaded guilty to and was convicted of.
22. Mr. Huante worked steadily both before and after his criminal offense and fraudulent acts.
23. Mr. Huante provided five letters of recommendation in which individuals with personal knowledge of him indicated that he is professional and of good character.
24. The mitigating factors Mr. Huante established do not outweigh the serious nature of his criminal offense and fraudulent acts.
25. Mr. Huante is not presently fit to hold a general lines life, accident, health, and HMO license.

#### IV. CONCLUSIONS OF LAW

1. The Commissioner of Insurance and the Department have jurisdiction over this matter. Tex. Ins. Code §§ 4005.101, .102; Tex. Occ. Code §§ 53.021-.023.
2. SOAH has authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Ins. Code § 4005.104.
3. Mr. Huante received timely and sufficient notice of hearing. Tex. Gov't Code §§ 2001.051-.052.; Tex. Ins. Code § 4005.104(b).



4. The Department may deny a license if the Department determines that the applicant has engaged in fraudulent or dishonest acts or practices or has been convicted of a felony. Tex. Ins. Code § 4005.101(b)(5), (8).
5. The Department may deny a license application if the applicant has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation. Tex. Occ. Code § 53.021(a)(1).
6. The Department has determined that certain crimes are of such a serious nature that they are of prime importance in determining fitness for licensure. These crimes include any offense for which fraud, dishonesty, or deceit is an essential element. 28 Tex. Admin. Code § 1.502(e)(1).
7. The Department considers the factors listed in Texas Occupations Code §§ 53.022 and .023 in determining whether to issue a license to an applicant with a criminal history or who has engaged in fraudulent or dishonest activity, and will not issue a license unless those mitigating factors outweigh the serious nature of the criminal offense when viewed in the light of the occupation being licensed. 28 Texas Administrative Code § 1.502(f), (h).
8. Staff has the burden to prove by a preponderance of the evidence its alleged grounds to deny Mr. Huante's license application, while Mr. Huante has the burden to prove by a preponderance of the evidence that he is fit to perform the duties and discharge the responsibilities of an insurance agent despite his criminal history. *See* Tex. Ins. Code § 4005.101(b); 1 Tex. Admin. Code § 155.427; 28 Tex. Admin. Code § 1.502(f), (h).
9. Staff met its burden to prove that Mr. Huante engaged in fraudulent or dishonest acts or practices and was convicted of a felony; and the acts and the offense were directly related to the duties and responsibilities of the licensed occupation. *See* Tex. Ins. Code § 4005.101(b)(5), (8); Tex. Occ. Code §§ 53.021-.023; 28 Tex. Admin. Code § 1.502(d), (f), (h).
10. Mr. Huante did not meet his burden to prove that he is presently fit to perform the duties and discharge the responsibilities of the licensed occupation despite his criminal history. Tex. Occ. Code § 53.023; 28 Tex. Admin. Code § 1.502(d), (f), (h)(2)-(3).
11. Mr. Huante's license application should be denied.

**SIGNED January 3, 2022.**



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**HEATHER HUNZIKER  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS**