

No. **2021-6818**

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

Date: 05/10/2021

Subject Considered:

Texas Department of Insurance

v.

Andrea D. Beller

SOAH Docket No. 454-20-3308.C

General remarks and official action taken:

The subject of this order is Andrea D. Beller's application for a general lines property and casualty license. The Texas Department of Insurance (TDI) grants Ms. Beller's license application, but with a two-year probated suspension.

Background

After proper notice was given, the above styled case was heard by an administrative law judge (ALJ) for the State Office of Administrative Hearings. The ALJ made and filed a proposal for decision containing findings of fact and conclusions of law. A copy of the proposal for decision is attached as Exhibit A.

Staff for TDI filed exceptions to the administrative law judge's proposal for decision. Ms. Beller did not file a reply to the exceptions.

In response to TDI's exceptions, the ALJ agreed to revise Finding of Fact No. 6 and delete Conclusion of Law No. 7, but otherwise made no revisions to the proposal for decision. A copy of the ALJ's response to exceptions is attached as Exhibit B.

TDI adopts the ALJ's proposed findings of fact and conclusions of law, as modified by Exhibit B, but with changes to Finding of Fact No. 17 as described in this order.

Legal Authority for Changes to Findings of Fact

The legal authority for the changes to the proposal for decision made in this order is TEX. GOV'T CODE § 2001.058(e)(1), which provides 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 the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies [of the agency], or prior administrative decisions...."

Analysis

Texas Occupations Code §§ 53.022 – 53.023 and 28 TAC § 1.502

The circumstances of Ms. Beller's criminal conduct are described in detail in the proposal for decision, and they will not be repeated in full here. But on June 17, 2010, she pleaded guilty to a felony charge of burglary of a habitation and received deferred adjudication. And on October 20, 2010, she was convicted of fraudulent use or possession of identifying information, a state jail felony.

Due to Ms. Beller's criminal history, TDI may not issue her a license unless the factors specified in TEX. OCC. CODE §§ 53.022-53.023 and 28 TAC § 1.502(h) outweigh the serious nature of her offenses when viewed in light of the occupation being licensed. *See* 28 TAC § 1.502(f). State law and TDI rules require that all applicable factors must be weighed in determining an applicant's fitness for licensure. *See* TEX. OCC. CODE §§ 53.022-53.023(a) (stating that "the licensing authority shall consider" enumerated factors); 28 TAC § 1.502(h)(1)-(2) (stating that "the department shall consider" enumerated factors). Thus, a failure to properly weigh all applicable factors is a misapplication of law and agency rules that could warrant changes to the proposal for decision under TEX. GOV'T CODE § 2001.058(e)(1).

In its exceptions to the proposal for decision, TDI staff argue that the ALJ's findings of fact should acknowledge the serious nature of Ms. Beller's offenses referenced above. Without such a finding, they argue, the ALJ could not have properly weighed the applicable factors. *See* TEX. OCC. CODE § 53.022(1) (TDI shall consider "the nature and seriousness of the crime"); 28 TAC § 1.502(h)(1)(A) (same). The ALJ failed to address this point in his response to staff's exceptions, but a review of the Analysis portion of the

COMMISSIONER'S ORDER
TDI v. Andrea D. Beller
SOAH Docket No. 454-20-3308.C
Page 3 of 7

proposal for decision reveals that he acknowledges Ms. Beller's crimes are serious.¹ See Proposal for Decision, pg. 9. However, TDI staff's point is well taken, and the seriousness of Ms. Beller's offenses should have been included in the findings of fact to ensure all applicable factors are properly weighed.

The same is true for another factor: the extent to which a license might offer an opportunity to engage in further criminal activity of the same type. See TEX. OCC. CODE § 53.022(3); 28 TAC § 1.502(h)(1)(C). The ALJ acknowledged that granting Ms. Beller a license would offer her an opportunity to engage in similar criminal activity, but he failed to include that in a finding of fact. See Proposal for Decision, pg. 9.

The ALJ's proposal for decision is changed as described below to address the seriousness of Ms. Beller's offenses and the extent to which a license would offer her an opportunity to engage in similar criminal activity.

The ALJ's proposed Finding of Fact No. 17 states:

Ms. Beller has no other criminal history and has maintained a good record of conduct.

Based on the analysis above, the ALJ's proposed Finding of Fact No. 17 is changed to state:

Ms. Beller has no other criminal history and has maintained a good record of conduct. However, Ms. Beller's crimes are serious, and a license would offer an opportunity to engage in similar criminal activity.

TDI has reviewed the record and weighed all applicable factors, and even with the modified finding of fact, TDI still agrees with the ALJ's recommendation to grant Ms. Beller a license. However, while the factors overall weigh in favor of granting a license, the serious nature of Ms. Beller's crimes and the fact that a license would offer her an opportunity to engage in similar criminal activity warrant additional monitoring by TDI. Therefore, TDI finds that her license should be placed on probated suspension for two

¹ TDI rules are clear that burglary of a habitation and fraudulent use or possession of identifying information are crimes of such serious nature that they are of prime importance in determining fitness for licensure. 28 TAC § 1.502(e).

COMMISSIONER'S ORDER
TDI v. Andrea D. Beller
SOAH Docket No. 454-20-3308.C
Page 4 of 7

years with reporting requirements, to allow TDI to observe how she performs as a licensee.

18 U.S.C. § 1033(e)(2)

Because Ms. Beller has been convicted of a criminal felony involving dishonesty or a breach of trust, it is necessary that she have written consent to engage or participate in the business of insurance.² This order includes such written consent.

Findings of Fact

1. Findings of Fact Nos. 1 through 16, and 18 through 21 contained in Exhibit A as revised consistent with Exhibit B are adopted by TDI and incorporated by reference into this order.
2. In place of Finding of Fact No. 17 as proposed in Exhibit A, TDI adopts the following finding of fact:

Ms. Beller has no other criminal history and has maintained a good record of conduct. However, Ms. Beller's crimes are serious, and a license would offer an opportunity to engage in similar criminal activity.

Conclusions of Law

The conclusions of law contained in Exhibit A as revised consistent with Exhibit B are adopted by TDI and incorporated by reference into this order.

² Any individual who has been convicted of any criminal felony involving dishonesty or a breach of trust, or who has been convicted of an offense under this section, and who willfully engages in the business of insurance whose activities affect interstate commerce or participates in such business, shall be fined as provided in this title or imprisoned not more than 5 years, or both. 18 U.S.C. § 1033(e)(1)(A).

A person described in paragraph (1)(A) may engage in the business of insurance or participate in such business if such person has the written consent of any insurance regulatory official authorized to regulate the insurer, which consent specifically refers to this subsection. 18 U.S.C. § 1033(e)(2).

COMMISSIONER'S ORDER
TDI v. Andrea D. Beller
SOAH Docket No. 454-20-3308.C
Page 5 of 7

Order

It is ordered that Andrea D. Beller's application for a general lines property and casualty license is approved.

Additionally, Ms. Beller is granted written consent, as contemplated by 18 U.S.C. § 1033(e)(2), to engage in the business of insurance, subject to the following requirements:

1. Ms. Beller must continuously maintain the license or other authorization issued by the Texas Department of Insurance to which this written consent applies.
2. This written consent is strictly limited to performing acts which constitute the business of insurance, as defined in TEX. INS. CODE § 101.051.
3. This written consent is limited to acts performed by Ms. Beller in the State of Texas for persons that are domiciled in Texas and risks and subjects of insurance that are resident, located, or to be performed in Texas.

If Ms. Beller is subsequently convicted of another felony offense or if additional information concerning her activities within the business of insurance becomes available, the department reserves its rights to withdraw this written consent under 18 U.S.C. § 1033(e)(2).

This determination does not authorize Ms. Beller to engage in the business of insurance, except as specifically stated in this order, and does not preclude the department from proposing denial of any other license, authority, registration, or application Ms. Beller submits at a later date.

It is further ordered that Ms. Beller's license is suspended for two years. The suspension is probated, and during the period of probation, Ms. Beller must comply with the following terms and conditions:

If, during the probation period imposed by this order, the department issues any additional licenses or authorizations to Ms. Beller, those additional licenses or authorizations will be suspended until the probation period imposed by this order has ended. The suspension will be probated, and the same terms and conditions stated in this order will apply.

Beginning from the date of this order and continuing through the probation period, Ms. Beller must provide written notice of his criminal record to any appointing

COMMISSIONER'S ORDER
TDI v. Andrea D. Beller
SOAH Docket No. 454-20-3308.C
Page 6 of 7

company, agency, employer, sponsor, or other entity on behalf of which she performs the acts of an agent. Ms. Beller must provide the department with a copy of the notification within 30 days of the appointment, employment, or sponsorship by emailing it to TDI at EnforcementReports@tdi.texas.gov.

Beginning from the date of this order and continuing through the probation period, Ms. Beller must file a written report, on or before the 15th day of the month on a quarterly basis for the months of May, August, November, and February, with TDI by emailing it to EnforcementReports@tdi.texas.gov.

The reports must include the following information:

- a. Ms. Beller's current mailing address and telephone number;
- b. the name, mailing address, and telephone number of Ms. Beller's employer, and if Ms. Beller is self-employed, a statement that she is self-employed and the name, mailing address, and telephone number of her business;
- c. the name and address of any insurer which has appointed Ms. Beller as an agent;
- d. the name and address of any insurer which has cancelled Ms. Beller's appointment as an agent; and
- e. a copy of any and all contracts Ms. Beller has entered into with an insurer, broker, agent, agency, managing general agent, or any other person or entity in the business of insurance.

Ms. Beller must notify TDI immediately of the following by emailing EnforcementReports@tdi.texas.gov:

- a. any charges or indictments filed against her for a misdemeanor or felony during the period she is required to file reports, excluding traffic offenses and Class C misdemeanors;
- b. any state or regulatory actions taken against her including formal and informal actions;
- c. any change in her employment or her residence; and

2021-6818

COMMISSIONER'S ORDER
TDI v. Andrea D. Beller
SOAH Docket No. 454-20-3308.C
Page 7 of 7

- d. any complaint made against Ms. Beller concerning his performance as an agent, as well as a written explanation detailing the steps taken to resolve it.

Commissioner of Insurance

DocuSigned by:
Doug Slape
By: C77A87C8C21B435...
Doug Slape
Chief Deputy Commissioner
Tex. Gov't Code § 601.002
Commissioner's Order No. 2018-5528

Recommended and reviewed by:

DocuSigned by:
James Person
By: 75578E954EFC48A...
James Person, General Counsel

DocuSigned by:
Justin Beam
By: 27ADF3DA5BAF4B7...
Justin Beam, Assistant General Counsel



SOAH DOCKET NO. 454-20-3308.C
TDI ENFORCMENT NO. 17464

TEXAS DEPARTMENT
OF INSURANCE,
Petitioner

§
§
§
§
§
§
§
§
§

BEFORE THE STATE OFFICE

v.

OF

ANDREA D. BELLER,
Respondent

ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

Andrea B. Beller applied to the Texas Department of Insurance (Department) for a general lines property and casualty license. The Department’s staff (Staff) seeks to deny the application based upon Ms. Beller’s criminal history. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends Ms. Beller’s license application be approved.

I. PROCEDURAL HISTORY, NOTICE, AND JURISDICTION

On February 10, 2017, Ms. Beller filed an application for a general lines property and casualty license with the Department. On August 3, 2017, the Department proposed to deny the application. Ms. Beller timely appealed the Department’s proposed denial, and this matter was referred to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.

On June 23, 2020, SOAH ALJ Steven M. Rivas convened a hearing on the merits by telephone in this matter. Attorney Patrick Seeboth represented Staff. Ms. Beller appeared and represented herself. The hearing was adjourned and the record closed on that same day. Notice and jurisdiction were not disputed by either party and are set out below in the Findings of Fact and Conclusions of Law.

II. APPLICABLE LAW

The Department may deny a license application if the Department determines the applicant based on prior criminal history, has engaged in fraudulent or dishonest acts or practices; or has been convicted of a felony.¹

When examining whether to grant, deny, suspend, or revoke any license under its jurisdiction based on a criminal conviction, the Department is to consider the factors set out in Texas Occupations Code §§ 53.022 and 53.023. Those factors include:

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;
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; and
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.²

In determining the fitness to perform the duties and responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority must also consider the following factors:

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;

¹ Tex. Ins. Code § 4005.101(b)(2), (3), (5), (8).

² Tex. Occ. Code § 53.022. Ms. Beller filed her application on February 10, 2017. The version of the statutes and rules in effect on that date apply and are cited in this Proposal for Decision.

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 following release;
6. other evidence of the person's present fitness, including letters of recommendation from:
 - a. prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
 - b. the sheriff or chief of police in the community where the person resides; and
 - c. any other persons in contact with the convicted person; and
7. proof furnished by the applicant that the applicant has:
 - a. maintained a record of steady employment;
 - b. supported the applicant's dependents;
 - c. maintained a record of good conduct; and
 - d. paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant or holder has been convicted.³

The Department has developed guidelines relating to matters it will consider in determining whether to grant a license if the applicant has been convicted of a crime. The crimes that the Department considers to be of such a serious nature that they are of prime importance in determining fitness for licensure include any offense with the essential elements of fraud, dishonesty, or deceit.⁴

³ Tex. Occ. Code § 53.023. The Department has adopted these factors in its rules. 28 Tex. Admin. Code § 1.502(h).

⁴ 28 Tex. Admin. Code § 1.502(e)(1).

Staff has the burden of producing evidence to show that Ms. Beller's application should be denied because she has a criminal history that supports denial of the license.⁵ Once Staff produces such evidence, the burden shifts to Ms. Beller to show that she is fit for a license despite her criminal history.⁶

III. EVIDENCE

A. Ms. Beller's Criminal History

1. Possession of a Controlled Substance

On April 22, 2005, in Cause No. 219-80020-05, in the 219th Judicial District Court of Collin County, Texas, Ms. Beller pled guilty to possession of a controlled substance, methamphetamine, a third-degree felony. The court deferred adjudication of the offense and sentenced Ms. Beller to three years' community supervision.⁷ The court also ordered her to pay a \$500 fine and \$213 in court costs.⁸ On March 22, 2007, the court ordered that Ms. Beller's community supervision be extended to April 23, 2011, and that she pay a \$50 community supervision fee.⁹ On September 3, 2010, the court revoked Ms. Beller's community supervision for this offense, adjudicated guilt, and sentenced her to two years of confinement within the Texas Department of Corrections, which she served.¹⁰

⁵ 1 Tex. Admin. Code § 155.427.

⁶ Tex. Occ. Code § 52.023(b)-(c); 28 Tex. Admin. Code § 1.502(h)(3).

⁷ TDI Ex. 1 at 15-19.

⁸ *Id.*

⁹ TDI Ex. 1 at 24-28.

¹⁰ TDI Ex. 1 at 29-31.

2. Burglary of a Habitation

On June 17, 2010, in Cause No. F-0913460-L, in the Criminal District Court #5 of Dallas County, Texas, Ms. Beller pled guilty to burglary of a habitation, a second-degree felony. The court deferred adjudication of the offense and sentenced Ms. Beller to seven years' community supervision—through June 17, 2017.¹¹ The court also ordered her to pay a \$2,000 fine, \$240 in court costs, and \$1,120 in restitution.¹²

3. Fraudulent Possession of Identifying Information

On October 20, 2010, in Cause No. F-2010-1348-C, in the 211th District Court of Denton County, Texas, Ms. Beller was convicted of fraudulent use or possession of identifying information, a state jail felony. The court sentenced Ms. Beller to 120 days' confinement in the Denton County jail, which she served, and ordered her to pay \$220 in court costs.¹³

B. Ms. Beller's evidence

Ms. Beller expressed remorse over her criminal history and stated she has worked hard to overcome the incidents that occurred during her "troubled past." She pointed out that she never attempted to conceal her criminal history from the Department, and that she intends to focus on her career and live a law-abiding life going forward.

Ms. Beller did not dispute the 2004 drug charge. Nor did she dispute that the court revoked her community supervision in 2010. The reason for the revocation, she explained was because she could not afford to travel and meet with her probation officer as often as required. Therefore, she testified, she turned herself in and accepted the court's jail sentence.

¹¹ TDI Ex. 1 at 55-64.

¹² *Id.*

¹³ TDI Ex. 1 at 74-79. The date of the offense was February 8, 2010.

While in jail, she testified, she completed a 12-step drug awareness program, attended Alcoholics Anonymous meetings, and graduated from a 4-C Substance Abuse Felony Punishment Facility (SAFPF) program, which is a 6-month specialized inpatient drug treatment plan designed to rehabilitate persons placed on felony probation in Dallas County. She asserted that the experience turned out to have a positive impact on her life and vowed never to use drugs ever again.

As for the burglary charge, Ms. Beller explained the incident occurred when her ex-boyfriend placed a set of stolen golf clubs in her vehicle without her knowledge. She testified that because the golf clubs were discovered in her vehicle, she felt partially responsible for the crime and pled guilty even though she did not take the golf clubs.

Similarly, Ms. Beller testified she pled guilty to fraudulent possession of identifying information because her ex-boyfriend, who committed the crime by using another person's identity to apply for a credit card in Ms. Beller's name, had lived with her at that time. Ms. Beller testified that she pled guilty with the understanding that a guilty plea would ensure a sooner release from jail than if she pled not-guilty and remained in jail until the trial. Had she known a guilty plea would result in an additional conviction being placed on her record, Ms. Beller asserted, she may have pled not-guilty. Ms. Beller was released from jail in 2014, and on February 17, 2016, the court granted early discharge from community supervision.¹⁴

Ms. Beller offered the following letters of recommendation:

- Judge Robert W. Francis, who oversees the 4-C SAFPF program in Dallas County wrote in a letter dated March 30, 2016, that Ms. Beller not only graduated from the program but also performed very well, which resulted in her being granted early discharge from community supervision.¹⁵

¹⁴ TDI Ex 1 at 65-72.

¹⁵ TDI Ex. 1 at 36. Although the SAFPF program is geared toward drug rehabilitation, Ms. Beller served her time for drug possession and fraudulent possession of identifying information. The court granted early discharge from community supervision in connection to the burglary conviction. *See also* TDI Ex. 1 at 65.

- Michelle Lacey, an acquaintance, wrote in a letter dated January 26, 2017, that she has known Ms. Beller for three years and, in that time, has seen Ms. Beller work very hard to get back into the mainstream of life after her troubled past.¹⁶ Ms. Lacey also believes “without a doubt” that Ms. Beller will maintain her current goals in life and has the ability to succeed in the future.¹⁷
- Kristina Sukhu, a former co-worker, wrote in a letter dated May 12, 2017, that she had known Ms. Beller for 10 years and had worked with her at an independent insurance agency in 2008.¹⁸ Ms. Sukhu asserted that Ms. Beller is hardworking and knowledgeable of the insurance industry.¹⁹

Ms. Beller added that Ms. Sukhu has discussed the possibility of employing Ms. Beller if she is able to obtain her license. In addition, Ms. Beller’s resume indicates she has maintained employment throughout her working career despite her encounters with law enforcement. Her resume indicates that from 1995 through 2013, she was employed in the insurance industry by various agencies including Davis, Dyer, Max Agency and Shaw Insurance Agency in the Dallas area. Her job duties were primarily in the area of customer service by assisting policyholders but she also worked closely with underwriters, according to her resume. After her release from jail, Ms. Beller found employment in the retail and food service, and currently works at Cracker Barrel.

C. Testimony of Lewis Weldon Wright, IV

Mr. Wright is the liaison between the Agent and Adjuster Licensing Office and the Enforcement Division of the Department. He reviews nonstandard license applications and makes recommendations to deny or issue a license.

¹⁶ TDI Ex. 1 at 78.

¹⁷ *Id.*

¹⁸ TDI Ex. 1 at 79.

¹⁹ *Id.*

Mr. Wright testified that under 28 Texas Administrative Code § 1.502(c), the Department considers it to be very important that a licensed individual is honest, trustworthy, and reliable. He stated that consistent with Texas Occupations Code § 53.025 and 28 Texas Administrative Code § 1.502, in determining an individual's fitness for licensure, certain crimes are considered to be of a more serious nature. He testified that under 28 Texas Administrative Code § 1.502(e)(1), any offense for which fraud, dishonesty or deceit is an essential element is considered to be a serious offense. He stated that Ms. Beller's burglary conviction also fell within 28 Texas Administrative Code § 1.502(e)(3), crimes of moral turpitude. He noted that an individual with an insurance license has increased opportunities to commit a financial crime because the individual has access to money received from applicants, from insured individuals, and also from the insurance carriers and intermediary agencies.

Mr. Wright testified that Ms. Beller's fraudulent use or possession of identifying information conviction also raised concerns with her application. Similar to her burglary conviction, the fraudulent use conviction falls within the category of a crime that includes fraud, dishonesty or deceit as an essential element. Additionally, it is considered a crime involving moral turpitude or breach of fiduciary duty. He noted that agents are given confidential information from applicants, such as date of birth, Social Security number, driver's license number, address, and credit card or bank information. He noted that Ms. Beller's positive letters of reference, work history and rehabilitative efforts are favorable to Ms. Beller, the seriousness of her convictions, outweighed the evidence in her favor. On that basis, Mr. Wright concluded, the decision to issue a proposal to deny licensure was made based on Ms. Beller's criminal history.

IV. ANALYSIS

The Department may deny Ms. Beller's license application due to her criminal history, which involved fraudulent or dishonest acts or practices. Pursuant to 28 Texas Administrative Code § 1.502, the Department will consider the factors listed in Texas Occupations Code §§ 53.022 and 53.023, set out above, in determining whether to grant Ms. Beller's license application.

Ms. Beller's crimes are serious and a license would offer an opportunity to engage in similar criminal activity. In addition, none of the crimes she committed could be deemed youthful indiscretions because in 2004, when she was convicted for drug possession, she was 29 years old. In 2010, when she was convicted of burglary and pled guilty to fraudulent possession of identify information, she was 35 years old. Presently, Ms. Beller is 45 years old, but in 2004 and 2010 she was mature enough to make better decisions.

Other than the three convictions outlined herein, Ms. Beller has no other criminal activity, and it has been 10 years since she last engaged in criminal activity. The evidence also illustrates Ms. Beller has an extensive work history and has undertaken rehabilitative efforts to get her life on track. The letters of recommendation presented Ms. Beller in a positive light, especially the letter from Judge Francis. Although no evidence was presented on whether she has dependents to care for, she provided undisputed testimony that all fines, restitution, and court costs have been paid in full.

Ms. Beller has the burden of proving present fitness to be licensed. There is no dispute that she has been convicted for two felony offenses involving fraudulent or dishonest acts or practices. After considering the applicable factors, it appears Ms. Beller has successfully rehabilitated herself and will make better decisions moving forward in her career. The ALJ concludes that Ms. Beller's application for a general lines agent license with a property and casualty qualification be approved on the basis that she has demonstrated fitness to be licensed.

V. FINDINGS OF FACT

1. On February 10, 2017, Andrea B. Beller applied for a general lines property and casualty license with the Texas Department of Insurance (Department).
2. Ms. Beller did not conceal her criminal history from the Department on her application.
3. On August 3, 2017, the Department proposed to deny the application.

4. Ms. Beller timely appealed the Department's proposed denial, and this matter was referred to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.
5. On April 15, 2020, Staff issued a notice of hearing. The notice of hearing 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 either a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
6. The telephonic hearing in this case was held on June 23, 2020, before SOAH Administrative Law Judge Steven M. Rivas. The staff (Staff) of the Department was represented by staff Attorney Patrick Seeboth. Ms. Beller appeared and represented herself. The hearing concluded and the record closed on that same day.
7. On April 22, 2005, in Cause No. 219-80020-05, in the 219th Judicial District Court of Collin County, Texas, Ms. Beller pled guilty to possession of a controlled substance, methamphetamine, a third-degree felony. The court deferred adjudication of the offense and sentenced Ms. Beller to three years' community supervision. The court also ordered her to pay a \$500 fine and \$213 in court costs.
8. On March 22, 2007, the court ordered that Ms. Beller's community supervision be extended to April 23, 2011, and that she pay a \$50 community supervision fee.
9. On June 17, 2010, in Cause No. F-0913460-L, in the Criminal District Court #5 of Dallas County, Texas, Ms. Beller pled guilty to burglary of a habitation, a second-degree felony. The court deferred adjudication of the offense and sentenced Ms. Beller to seven years' community supervision—through June 17, 2017. The court also ordered her to pay a \$2,000 fine, \$240 in court costs, and \$1,120 in restitution.
10. On September 3, 2010, the court revoked Ms. Beller's community supervision for the drug possession conviction, adjudicated guilt, and sentenced her to two years of confinement within the Texas Department of Corrections, which she served.
11. On October 20, 2010, in Cause No. F-2010-1348-C, in the 211th District Court of Denton County, Texas, Ms. Beller was convicted of fraudulent use or possession of identifying information, a state jail felony. The court sentenced Ms. Beller to 120 days' confinement in the Denton County jail, which she served, and ordered her to pay \$220 in court costs.
12. Ms. Beller was 29 and 35 years old respectively, when she committed her first and last offenses.
13. In 2016, Ms. Beller graduated from the 4-C Substance Abuse Felony Punishment Facility (SAFPF) program of Dallas County.

14. On February 17, 2016, the court granted early discharge from community supervision.
15. On March 30, 2016, Judge Robert W. Francis, who oversees the 4-C SAFPF program in Dallas County wrote that Ms. Beller not only graduated from the program but also performed very well, which resulted in her being granted early discharge from community supervision.
16. Ten years have elapsed since Ms. Beller last engaged in criminal activity.
17. Ms. Beller has no other criminal history and has maintained a good record of conduct.
18. Ms. Beller has been gainfully employed since before and after being released from incarceration, including working in customer service within the insurance industry.
19. Ms. Beller has paid all fines, restitution, and court costs in full.
20. Ms. Beller has successfully rehabilitated herself from her criminal past.
21. The preponderance of the evidence shows Ms. Beller is presently fit to hold a license.

VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, .105, 4005.101.
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. Ms. Beller received timely and sufficient notice of hearing. Tex. Gov't Code ch. 2001; Tex. Ins. Code § 4005.104(b).
4. The Department may deny a license application if the applicant has engaged in fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(5).
5. The Department may deny a license application on an applicant's conviction of a felony offense. Tex. Ins. Code § 4005.101(b)(8).
6. In determining whether to grant or deny the application based on the applicant's criminal history, the Department will consider the factors in Texas Occupations Code §§ 53.022 and 53.023. 28 Tex. Admin. Code § 1.502(h).

7. The Department should approve Ms. Beller's application for a license because a preponderance of the evidence establishes her fitness to be licensed despite her felony convictions.

SIGNED: August 19, 2020.

A handwritten signature in black ink, appearing to read 'SMR', followed by a long horizontal line extending to the right.

**STEVEN M. RIVAS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

2021-6818

ACCEPTED
454-20-3308
9/23/2020 1:46 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK



FILED
454-20-3308
9/23/2020 1:20 PM
STATE OFFICE OF
ADMINISTRATIVE HEARINGS
Donnie Roland, CLERK

State Office of Administrative Hearings

Kristopher Monson
Chief Administrative Law Judge

Exhibit B

September 23, 2020

Kent Sullivan
Commissioner of Insurance
Texas Department of Insurance
333 Guadalupe, Tower 1, 13th Floor,
Mail Code 113-2A
Austin, TX 78714

VIA E-FILE TEXAS

RE: Docket No. 454-20-3308; *Texas Department of Insurance v. Andrea D. Beller*

Greetings,

On June 23, 2020, the undersigned Administrative Law Judge (ALJ) with the State Office of Administrative Hearings convened the hearing on the merits by telephone in the above-referenced matter. On August 19, 2020, the ALJ issued a Proposal for Decision (PFD). On September 2, 2020, Staff for Petitioner, Texas Department of Insurance filed TDI's Exceptions to the PFD. Respondent, Andrea D. Beller, did not file a response to Staff's Exceptions. After considering Staff's Exceptions, the ALJ recommends the following:

Amend **Finding of Fact No. 6** to read: The telephonic hearing in this case was held on June 23, 2020, before SOAH Administrative Law Judge Steven M. Rivas. The staff (Staff) of the Department was represented by staff Attorney Casey Seeboth. Ms. Bellar appeared and represented herself. The hearing concluded and the record closed on that same day; and

Delete **Conclusion of Law No. 7**.

2021-6818

SOAH Docket No. 454-20-3308.C
Exceptions Letter
Page No. 2

No other changes are recommended at this time.

Sincerely,



STEVEN M. RIVAS
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

SR/db

Enclosure

cc: Casey Seeboth, Staff Attorney, Texas Department of Insurance, 333 Guadalupe, Tower 1, 13th Floor,
Austin, Texas 78701 **VIA E-FILE TEXAS**
Andrea D. Belle [REDACTED] Grapevine, TX 76051 - **VIA REGULAR MAIL**