

No. 2021-6640

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

**Date:** 01/06/2021

**Subject Considered:**

Rene Ricardo Rivera  
[REDACTED]  
Rio Grande City, Texas 78582-3465

Consent Order  
TDI Enforcement File No. 26387

**General remarks and official action taken:**

The subject of this consent order is whether a general lines agent license with a life, accident, health, and HMO qualification should be issued to Rene Ricardo Rivera (Rivera). Rivera has provided rehabilitative evidence that outweighs the serious nature of his criminal history. This order grants a general lines agent license with a life, accident, health, and HMO qualification to Rivera subject to the terms of the two-year probated suspension detailed in this order.

**Waiver**

Rivera acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Rivera waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

**Findings of Fact**

License and Application

1. On May 5, 2020, the department issued a temporary general lines agent license with a life, accident, health and HMO qualification to Rivera, under individual identification number 2193878. That license expires on February 11, 2021.

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2. On July 21, 2020, Rivera applied for a general lines agent license with a life, accident, health, and HMO qualification to be issued by the department.

### Criminal History

3. On February 2, 2000, Rivera pled guilty to the offense of intoxication manslaughter, a second degree felony, in case no. 99-CR-1208-E, in the 357th District Court of Cameron County, Texas. Rivera was sentenced to ten years confinement, which was suspended, and he was placed on community supervision for ten years.
4. On April 4, 2005, Rivera's suspension was revoked and he was sentenced to two years confinement with credit for time served. He was released to mandatory supervision on September 16, 2005, and completely discharged from probation on October 4, 2006.

### Evidence of Rehabilitation

5. Rivera has cooperated extensively and timely with the department in its investigation of his criminal background. Rivera provided evidence of his rehabilitation to support his fitness for licensure.
6. In accordance with the requirements of TEX. OCC. CODE § 53.025, the department has developed guidelines relating to the matters which the department will consider in determining whether to grant, deny, suspend, or revoke any license or authorization under its jurisdiction, as described in 28 TEX. ADMIN. CODE §§ 1.502(e)-1.502(k).
7. The factors the department must initially consider in determining whether the offense directly relates to the duties and responsibilities of the licensed occupation are listed in TEX. OCC. CODE § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1):
  - (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;
  - (4) the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation; and

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- (5) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.
8. Considering the factors set forth in TEX. OCC. CODE § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1), Rivera's crime is directly related to the business of insurance. It was a serious, second degree felony for intoxication manslaughter. The crime bears a direct relationship to the purpose for requiring an agent's license, specifically protecting the public. However, it is unlikely that a license might offer an opportunity to repeat the crime. The crime does not presently impair Rivera's ability or capacity to perform the duties and responsibilities of an insurance agent, even though there is a correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.
9. Because the crime is directly related to the duties and responsibilities of the licensed occupation, the department must consider additional factors in determining whether issuance of the license is appropriate, specifically the factors in TEX. OCC. CODE § 53.023 and 28 TEX. ADMIN. CODE § 1.502(h)(2):
  - (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.
9. The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations described by TEX. OCC. CODE § 53.023(a)(7).
10. In consideration of the TEX. OCC. CODE §§ 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), Rivera has a single youthful conviction and attributes his conduct, in part, to immaturity and poor decision-making. He states he is a different man now than he was at the time of the tragedy that he deeply regrets. Rivera has accepted responsibility and expressed remorse for his criminal conduct.

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11. In consideration of TEX. OCC. CODE § 53.023(a)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(B), Rivera was 21 years old at the time of his criminal offense.
12. In consideration of TEX. OCC. CODE § 53.023(a)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(C), Rivera's conviction was 20 years ago in the year 2000 and he was released from probation in 2006.
13. In consideration of the TEX. OCC. CODE §§ 53.023(a)(4)-(5) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(D)-(E), Rivera provided evidence demonstrating his commitment to rehabilitation while on probation and after probation, including a detailed resume and explanation of his employment history. Rivera was enrolled in college prior to his criminal activity. While on probation, he completed his education and obtained an associate's degree. He is also a certified heavy-duty equipment operator. After release from probation, he has maintained steady employment in computer drafting, analytics, data management, GIS mapping, and construction project management. For the last year, he has worked with the Medicare Store, doing clerical work. He also volunteers with Habitat for Humanity and Christmas in April helping to build and rebuild homes for those in need. He has held a temporary insurance license since May 2020 with no complaints.
14. In consideration of TEX. OCC. CODE § 53.023(a)(6), although Rivera violated his initial community supervision requirements, leading to his incarceration, he successfully completed his post-incarceration community supervision. He has gotten married and started a family. He also provided evidence showing he paid his court costs and fees.
15. In consideration of TEX. OCC. CODE § 53.023(a)(7), the department received three letters of recommendation: from Rivera's employer, a long-term friend, and his mother. All the letters describe him both professionally and personally as hard-working, reliable, trustworthy, and committed to giving back to the community. Each letter indicates Rivera is a different man than he was at the time of the crime. His employer and sponsor is a licensed insurance agent familiar with Rivera's criminal history who describes him as hard-working, always willing to go the extra mile, and particularly helpful in addressing the concerns of their senior clients. The employer also reports that he directly supervises him, is comfortable sponsoring him, and has not had any incidents or complaints.

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16. The factors described in TEX. OCC. CODE §§ 53.022 and 53.023 and 28 TEX. ADMIN. CODE § 1.502(h) outweigh the serious nature of Rivera's conviction.
17. Due to Rivera's criminal background, the department needs the opportunity to monitor his insurance activities to ensure he demonstrates the ability, capacity, and fitness required to perform and discharge the responsibilities of a licensed agent.

### Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 4005.101, 4005.102, and 4054.051; TEX. GOV'T CODE §§ 2001.051-2001.178; 28 TEX. ADMIN. CODE § 1.502; and TEX. OCC. CODE §§ 53.021-53.023.
2. The commissioner has the authority to dispose of this case informally pursuant to the provisions of TEX. GOV'T CODE §§ 2001.056 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Rivera has knowingly and voluntarily waived all procedural rights to which he may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. Rivera committed an act for which the department may deny a license under TEX. INS. CODE §§ 4001.105 and 4005.101.
5. Pursuant to 28 TEX. ADMIN. CODE § 1.502(f), the commissioner has determined that the factors in TEX. OCC. CODE §§ 53.022-53.023 outweigh the serious nature of Rivera's criminal convictions.

### Order

It is ordered that a general lines agent with a life, accident, health, and HMO qualification is granted to Rene Ricardo Rivera. It is further ordered that the license is suspended for two years. The suspension shall be probated, and the terms and conditions stated in this order will apply.

If, during the probation period imposed by this order, the department issues any additional licenses or authorizations to Rivera, those additional licenses or authorizations

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will be suspended until the probation period imposed by this order has ended. The suspension shall 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, Rivera must provide written notice of his criminal record to any appointing company, agency, employer, or other entity on behalf of which he performs the acts of an agent. Rivera must provide the department with a copy of the notification within 30 days of the appointment, employment, or sponsorship by emailing it to the Texas Department of Insurance at [EnforcementReports@tdi.texas.gov](mailto:EnforcementReports@tdi.texas.gov).

Beginning from the date of this order and continuing through the probation period, Rivera must file a written report, on or before the 15th day of the month on a quarterly basis for the months of March, June, September, and December, with the Texas Department of Insurance by emailing it to [EnforcementReports@tdi.texas.gov](mailto:EnforcementReports@tdi.texas.gov). The reports must include the following information:

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

Rivera must notify the department immediately of the following by emailing [EnforcementReports@tdi.texas.gov](mailto:EnforcementReports@tdi.texas.gov):

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

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

Commissioner of Insurance

DocuSigned by:  
  
By: C77A87C8C21B435...  
Doug Slape  
Chief Deputy Commissioner  
TEX. GOV'T CODE § 601.002  
Commissioner's Order No. 2018-5528

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner  
Enforcement Division



Amanda Atkinson Cagle, Staff Attorney  
Enforcement Division

**Affidavit**

**STATE OF TEXAS**

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**COUNTY OF** Starr

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Before me, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed of the following:

"My name is Rene Ricardo Rivera. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I waive rights provided by the Texas Insurance Code and other applicable law and acknowledge the jurisdiction of the commissioner.

I have knowingly and voluntarily entered into this consent order and agree with and consent to the issuance and service of the same by the commissioner of insurance of the State of Texas."



Affiant

SWORN TO AND SUBSCRIBED before me on this 11<sup>th</sup> day of December, 2020.

(NOTARY STAMP)



Signature of Notary of Public

