

No. **2021-7018**

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

**Date: 10/13/2021**

**Subject Considered:**

Texas Department of Insurance

v.

Jesse Juarez

SOAH Docket No. 454-20-4039.C

**General remarks and official action taken:**

The subject of this order is Jesse Juarez's application for a life agent license. This order denies Mr. Juarez'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. Juarez'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 the addition of Conclusion of Law No. 4.A and changes to Conclusion of Law No. 5 as described in this order.

**Legal Authority for Changes to Conclusions of Law**

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 Insurance Code § 4005.101(b)(8) and Texas Occupations Code § 53.021(d)

TEX. INS. CODE § 4005.101 provides grounds on which TDI may discipline a license holder, including denying a person's license application. Under subsection (b)(8), TDI may discipline a license holder if it determines the applicant "has been convicted of a felony[.]" Relatedly, TEX. OCC. CODE § 53.021(a) authorizes licensing agencies such as TDI to revoke a person's license if the "person has been convicted of . . . an offense that directly relates to the duties and responsibilities of the licensed occupation[.]"<sup>1</sup>

In 2012, Mr. Juarez pleaded guilty to arson, a second degree felony. He received, and is presently on, deferred adjudication community supervision for the offense. A deferred adjudication is generally not considered a conviction unless otherwise provided in statute.<sup>2</sup> See *McNew v. State*, 608 S.W.2d 166, 172 (Tex. Crim. App. 1978) ("[A] 'conviction,' regardless of the context in which it is used, always involves an adjudication of guilt."); *Hassan v. State*, 440 S.W.3d 684, 687 (Tex. App.—Houston [14th Dist.] 2012, no pet.) ("[A]n order deferring adjudication of guilt and placing a defendant on probation or community supervision is not a conviction."); Tex. Att'y Gen. Op. No. JC-396 (2001) at 2 ("As commonly defined, the term 'convicted' means "[p]roved or found guilty; condemned.") (citing III Oxford English Dictionary 879 (2d ed. 1989)).

In this case, the administrative law judge concluded, without analysis, that Mr. Juarez's deferred adjudication qualifies as a conviction for purposes of TEX. INS. CODE § 4005.101(b)(8). As support for his conclusion the administrative law judge simply cites to TEX. OCC. CODE § 53.021(d), which provides:

A licensing authority may consider a person to have been convicted of an offense for purposes of this section regardless of whether the proceedings

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<sup>1</sup> Section 53.021(a) also authorizes license revocation if the license holder was convicted of certain other serious offenses not at issue here.

<sup>2</sup> When the Legislature has intended to expand on what constitutes a conviction in a particular area, it has done so in clear and unmistakable terms. See, e.g., TEX. GOV'T. CODE § 411.171(4) (defining "convicted," for purposes of handgun carry laws, to include some deferred adjudications).

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were dismissed and the person was discharged as described by Subsection (c) if:

(1) the person was charged with:

(A) any offense described by Article 62.001(5), Code of Criminal Procedure; or

(B) an offense other than an offense described by Paragraph (A) if:

(i) the person has not completed the period of supervision or the person completed the period of supervision less than five years before the date the person applied for the license; or

(ii) a conviction for the offense would make the person ineligible for the license by operation of law; and

(2) after consideration of the factors described by Sections 53.022 and 53.023(a), the licensing authority determines that:

(A) the person may pose a continued threat to public safety; or

(B) employment of the person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct.

By its plain language, however, subsection (d) of § 53.021 only applies in the context of that section. *See* TEX. OCC. CODE § 53.021(d) ("A licensing authority may consider a person to have been convicted of an offense for purposes of this section . . .") (emphasis added). It cannot be used to establish a conviction outside the context of § 53.021. The Office of the Attorney General recognized as much in *Tex. Att'y Gen. Op. No. KP-107 (2016)*, albeit indirectly.

At issue in that opinion was the Texas Lottery Commission's statutory authority to revoke a sales agent's license if the agent had been "convicted of . . . gambling or a gambling-related offense[.]" TEX. GOV'T. CODE § 466.155. The operative question posed to the Attorney General was whether the Commission could revoke a license based on a sales agent's deferred adjudication for the offense of gambling, a Class C misdemeanor. After analyzing TEX. GOV'T. CODE § 466.155 and TEX. OCC. CODE § 53.021(d),

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the Attorney General concluded that the Commission could not revoke a license based on a deferred adjudication for gambling because § 53.021(a) did not extend to Class C misdemeanors. Implicit in that conclusion is a finding that the Commission could not use § 53.021(d) as a basis to treat a deferred adjudication as a conviction for purposes of TEX. GOV'T. CODE § 466.155, where a gambling conviction is expressly listed as a basis for license revocation.

Therefore, based on the analysis above, TDI concludes that the administrative law judge misinterpreted or misapplied the law in concluding that TEX. OCC. CODE § 53.021(d) may be used to treat a deferred adjudication as a conviction for purposes of TEX. INS. CODE § 4005.101(b)(8).<sup>3</sup>

While TEX. OCC. CODE § 53.021(d) may not be used to treat a deferred adjudication as a conviction for purposes of TEX. INS. CODE § 4005.101(b)(8), it can be used as such for purposes of TEX. OCC. CODE § 53.021(a). And while the administrative law judge's analysis in the proposal for decision focuses primarily on TEX. INS. CODE § 4005.101(b)(8), TEX. OCC. CODE § 53.021(a) also applies in this case because arson is a crime that directly relates to the duties and responsibilities of the licensed occupation. *See* 28 TEX. ADMIN. CODE § 1.502(e)(4)(C). Therefore, while TEX. INS. CODE § 4005.101(b)(8) may not serve as a basis to deny Mr. Juarez's application, TEX. OCC. CODE § 53.021(a) does. The administrative law judge's proposal for decision is changed accordingly, as described below.

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<sup>3</sup> Admittedly, TDI has not been consistent on this issue. In 1998, TDI Enforcement Staff acknowledged that deferred adjudications could not be considered convictions for purposes of TEX. INS. CODE § 4005.101(b)(8). *See* Proposal for Decision, SOAH Docket No. 454-97-2358.C, 2004 WL 4171092 at 3, n. 1 (1998) (addressing predecessor to Section 4005.101(b)(8)). But at some point after 1998 and before the first iteration of § 53.021(d) went into effect, Enforcement Staff began to argue that TDI rule 28 TEX. ADMIN. CODE § 1.502 allowed the Department to consider deferred adjudications as convictions for purposes of TEX. INS. CODE § 4005.101(b)(8). *See, e.g.,* Proposal for Decision, SOAH Docket No. 454-08-0564.C, 2008 WL 612585 (2008) (focusing on the fact that § 1.502(f) and (g) use the phrase "committed a felony" instead of "convicted of a felony"). Then, in 2012, Commissioner's Order No. 12-0455 clearly stated that deferred adjudications are not a basis for license denial, revocation, or other disciplinary action under TEX. INS. CODE § 4005.101(b)(8). But in 2019, TDI adopted a proposal for decision that concluded, without analysis, that TEX. OCC. CODE § 53.021(d) may be used to treat a deferred adjudication as a conviction for purposes of TEX. INS. CODE § 4005.101(b)(8). *See* Commissioner's Order No. 19-5933 (2019), SOAH Docket No. 454-19-1450.C (2019). The administrative law judge fails to address the agency's historical approach to the issue.

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Based on the analysis above showing the administrative law judge misinterpreted or misapplied the law, new Conclusion of Law No. 4.A is adopted:

The Department may deny a license 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).

The administrative law judge's proposed Conclusion of Law No. 5 states:

The Department may consider a person who has pleaded guilty, but whose adjudication has been deferred, to be convicted if the period of supervision is ongoing and the Department determines that the person may pose a continued threat to public safety or the employment of the person in the licensed occupation would create a situation in which he or she has the opportunity to repeat the prohibited conduct. TEX. OCC. CODE § 53.021(d).

Based on the analysis above showing the administrative law judge misinterpreted or misapplied the law, Conclusion of Law No. 5 is changed to state:

The Department may consider a person who has pleaded guilty, but whose adjudication has been deferred, to be convicted for purposes of TEX. OCC. CODE § 53.021(a) if the period of supervision is ongoing and the Department determines that the person may pose a continued threat to public safety or the employment of the person in the licensed occupation would create a situation in which he or she has the opportunity to repeat the prohibited conduct. TEX. OCC. CODE § 53.021(d).

### **Findings of Fact**

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

### **Conclusions of Law**

1. Conclusions of Law Nos. 1 – 4 and 6 – 9 as contained in Exhibit A are adopted by TDI and incorporated by reference into this order.
2. The following Conclusion of Law No. 4.A is adopted:

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The Department may deny a license 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).

3. In place of Conclusion of Law No. 5 as contained in Exhibit A, the following conclusion of law is adopted:

The Department may consider a person who has pleaded guilty, but whose adjudication has been deferred, to be convicted for purposes of TEX. OCC. CODE § 53.021(a) if the period of supervision is ongoing and the Department determines that the person may pose a continued threat to public safety or the employment of the person in the licensed occupation would create a situation in which he or she has the opportunity to repeat the prohibited conduct. TEX. OCC. CODE § 53.021(d).

**Order**

It is ordered that Jesse Juarez's application for a life agent 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

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Justin Beam, Assistant General Counsel

<b>TEXAS DEPARTMENT OF INSURANCE</b>	§	<b>BEFORE THE STATE OFFICE</b>
	§	
v.	§	<b>OF</b>
	§	
<b>JESSE JUAREZ,</b>	§	
<b>Applicant</b>	§	<b>ADMINISTRATIVE HEARINGS</b>

**PROPOSAL FOR DECISION**

The staff (Staff) of the Texas Department of Insurance (Department) seeks to deny Jesse Juarez’s application for a life agent license based on his criminal history. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends the Department deny Mr. Juarez’s license application.

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

The hearing in this case was held via Zoom videoconference on January 19, 2021, before ALJ Steven M. Rivas at the State Office of Administrative Hearings. Staff was represented by staff attorney Sydney Moore. Mr. Juarez represented himself. The hearing concluded and the record closed on February 2, 2021, when the ALJ received a copy of the hearing transcript. Notice and jurisdiction were not disputed and are set out in the Findings of Fact and Conclusions of Law.

**II. DISCUSSION**

**A. Background**

On April 25, 2012, Mr. Juarez pleaded guilty to arson, a second degree felony in Cause No. F-1251573-M in the 194th Judicial District Court of Dallas County, Texas, for an offense that occurred on January 24, 2012. The court deferred adjudication of the offense and ordered that Mr. Juarez be placed on community supervision for 10 years. The court also ordered Mr. Juarez to undergo psychological health (anger management) treatment, perform 240 hours of community service, pay a \$750 fine, plus \$344 in court costs, and \$5,000 in restitution. Mr. Juarez is presently on deferred adjudication and is not expected to be discharged until April 25, 2022.

On July 23, 2019, Mr. Juarez applied for a life agent license with the Department. On September 6, 2019, Staff proposed to deny his application based on his criminal record and for his failure to disclose. Mr. Juarez timely requested a hearing.<sup>1</sup>

## **B. Applicable Law**

The Department may deny a license to an applicant who has been convicted of a felony.<sup>2</sup> The Department may consider a person who has pleaded guilty to an offense, but whose adjudication has been deferred, to be convicted if the period of supervision is ongoing and the Department determines that the person may pose a continued threat to public safety or the employment of the person in the licensed occupation would create a situation in which he or she has the opportunity to repeat the prohibited conduct.<sup>3</sup>

To guide its decision making, the Department has identified certain crimes that it considers to be of such a serious nature that they are of prime importance in determining fitness for licensure.<sup>4</sup> These crimes include any offense with the essential elements of arson.<sup>5</sup>

The Department also considers the factors listed in Texas Occupations Code §§ 53.022 and 53.023 in determining whether to grant a license to an applicant with a criminal conviction.<sup>6</sup> These factors include:

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;

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<sup>1</sup> Staff Ex. 3 at 9.

<sup>2</sup> Tex. Ins. Code § 4005.101(b)(8).

<sup>3</sup> Tex. Occ. Code § 53.021(d). The legislature amended Texas Occupations Code chapter 53, effective September 1, 2019. The amendments apply to applications submitted after September 1, 2019. *See* Acts 2019, 86th Leg, ch. 765 (H.B. 1342), § 14, eff. Sept. 1, 2019. Because Mr. Juarez applied for a license before the amendments, the prior version of chapter 53 applies and is cited in this Proposal for Decision.

<sup>4</sup> 28 Tex. Admin. Code § 1.502(e).

<sup>5</sup> 28 Tex. Admin. Code § 1.502(e)(4)(C). *See also* Texas Penal Code Chapter 28.

<sup>6</sup> 28 Tex. Admin. Code § 1.502(h).



4. the conduct and work activity of the person prior to and following 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.<sup>7</sup>

Under its rules, the Department is to deny a license application unless it finds these factors outweigh the seriousness of the criminal offense.<sup>8</sup>

### **C. Evidence**

Staff offered three exhibits, which were admitted into evidence. Staff also offered the testimony of Lewis Weldon Wright, IV, an Administrative Review Liaison for the Department. Mr. Juarez testified on his own behalf, but did not offer any additional exhibits.

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<sup>7</sup> Tex. Occ. Code § 53.023.

<sup>8</sup> 28 Tex. Admin. Code § 1.502(f).

### 1. Testimony of Mr. Wright

Mr. Wright testified that, typically an application is evaluated for completeness to make sure that all questions have been responded to, and that the applicant has passed the required examination and has paid the licensing fee. If an applicant has a criminal history, however, the application goes through administrative review.

Mr. Wright testified that the Department considers arson not only directly related to the licensed occupation Mr. Juarez seeks, but also a crime of such a serious nature that it is of prime importance in determining fitness for licensure. According to a statement submitted by Mr. Juarez,<sup>9</sup> the incident occurred following a domestic disturbance wherein Mr. Juarez confronted his ex-girlfriend while she was at the home of her new boyfriend. Mr. Juarez admitted that he kicked in the door of the house and had a physical altercation with the new boyfriend and other family members who were inside the home. Three days later, according to Mr. Juarez, he returned to the home to set the boyfriend's car on fire. Mr. Wright testified that he was troubled by the element of premeditation in this matter in that Mr. Juarez waited three days to plan and execute the crime, which demonstrates the seriousness of the crime.

Focusing on the other licensure factors, Mr. Wright noted that the criminal activity took place nine years ago when Mr. Juarez was 20 years old. Mr. Wright also testified that Mr. Juarez presented very little evidence of his work activity prior to and following his criminal activity, noting further that Mr. Juarez never submitted a formal resume despite being requested to do so on several occasions. As such, Mr. Wright testified, he was unable to determine whether Mr. Juarez maintained steady employment, which is a major factor in evaluating a person's rehabilitation following criminal activity.

Mr. Wright testified further that the Department wants to know that an applicant on community supervision is in good standing and current with court costs, fines, and restitution. Mr. Wright acknowledged that Mr. Juarez submitted a letter from his probation officer indicating that Mr. Juarez was in compliance with the conditions of probation. Mr. Wright also acknowledged

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<sup>9</sup> Staff Ex. 3 at 26-31.

receipt of letters of recommendation (discussed below) provided by Mr. Juarez, which demonstrate Mr. Juarez has a strong connection with clergy and is on the right path for better opportunities and success. However, Mr. Wright concluded that, overall, Mr. Juarez's evidence of rehabilitation was fair but that Mr. Juarez's application should be denied because his community supervision was still ongoing and because there is insufficient evidence of steady employment.

## 2. Testimony of Mr. Juarez

Mr. Juarez did not deny any of his criminal activity and accepted responsibility for his actions. He expressed considerable remorse and also demonstrated that he is motivated to move beyond the mistakes he made in the past. He admitted to not providing a formal resume to Staff but noted that he instead provided a written statement outlining his work history, which included part-time work in restaurants like Chick-fil-A and Raising Canes before the incident.<sup>10</sup>

Mr. Juarez believes that due to his criminal history, he has been unable to secure steady employment. He testified that he currently works for a friend cleaning air ducts, performing chimney sweeps, installing insulation, and occasionally moving furniture. However, he stated, the work is not steady, and he is often paid in cash. Despite his current employment situation, Mr. Juarez asserted he still supports his dependents.<sup>11</sup> Mr. Juarez testified that he is behind on making restitution payments to the court. However, he hopes that once he is licensed, he can find steady employment and pay off his restitution.

Mr. Juarez also provided the following:

- A certificate of completion dated September 30, 2013, from Red Bird Education Programs, indicating Mr. Juarez completed an Anger Management Course;<sup>12</sup>
- A letter dated March 26, 2014, from Volunteer Center of North Texas verifying that Mr. Juarez completed 240 hours of community service;<sup>13</sup>

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<sup>10</sup> Staff Ex. 3 at 60-63.

<sup>11</sup> According to Mr. Juarez, he has three children.

<sup>12</sup> *Id.* at 33.

<sup>13</sup> Staff Ex. 3 at 36.

- A letter dated July 31, 2014, from Dallas County Public Service Program showing that Mr. Juarez completed his obligation of 200 hours to the Program;<sup>14</sup>
- A certificate of completion dated September 26, 2015, from Genesis Counseling Associates, PC, indicating that Mr. Juarez completed an Integrated Cognitive Behavior Change Program developed by the National Institute of Corrections;<sup>15</sup>
- A letter dated August 19, 2019, from the Dallas County Community Supervision and Corrections Department verifying Mr. Juarez is currently in compliance with conditions of his probation;<sup>16</sup>
- A letter of recommendation dated August 20, 2019, from Yaakov Rosenblatt, owner of Rosenblatt Kosher Meats wherein Mr. Rosenblatt wrote that he was aware of Mr. Juarez's probation, and that Mr. Juarez was a good employee and got along well with other employees during his 2018-2019 employment;<sup>17</sup>
- A letter of recommendation dated August 21, 2019, from Rabbi Ronen Shimon of the Young Israel Synagogue of Dallas, who wrote that he was aware that Mr. Juarez was on probation, and that Mr. Juarez was a good person who always helped out at the synagogue and is great with people;<sup>18</sup> and
- A letter of recommendation dated August 21, 2019, from an acquaintance Guillermo Picaso who wrote that he has known Mr. Juarez for 11 years and in that time has considered Mr. Juarez to be a great person.<sup>19</sup>

#### D. Analysis

Under Texas Insurance Code § 4005.101(b)(5), the Department may deny a license application if the applicant has been convicted of a felony. Mr. Juarez's guilty plea was for arson,

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<sup>14</sup> *Id.* at 35. It is unclear if these 200 hours are in addition to the 240 hours of community service that Mr. Juarez completed in March 2014 for the Volunteer Center of North Texas.

<sup>15</sup> *Id.* at 38.

<sup>16</sup> *Id.* at 40.

<sup>17</sup> *Id.* at 44.

<sup>18</sup> *Id.* at 43.

<sup>19</sup> *Id.* at 62.

a second-degree felony. Because the period of supervision is ongoing and he may pose a continued threat to public safety, his guilty plea may be treated as a conviction.<sup>20</sup>

Pursuant to 28 Texas Administrative Code § 1.502(h), the Department will consider the factors listed in Texas Occupations Code §§ 53.022 and 53.023, set out above, in determining whether to grant Mr. Juarez's license application. Regarding these factors, the evidence established that although arson was Mr. Juarez's only criminal activity, it is a serious offense that is directly related to the licensed occupation he seeks. However, Mr. Juarez was 20 years old at the time he committed the offense, which indicates he was relatively young, but should have understood there would be consequences to his actions.

In the nine years since he committed the offense, Mr. Juarez appears to have turned his life around by completing anger management classes and performing more than 200 hours of community service. He also appears to have earned the respect of clergy members, while complying with the terms of his probation, and supporting his dependents. These factors will serve him well moving forward. However, the absence of steady employment during the same nine years detracts from his overall rehabilitative efforts. In addition, the fact that he remains on community supervision and that he is behind on making restitution payments weighs against Mr. Juarez being licensed at this time.

Mr. Juarez has the burden of proving his present fitness to be licensed. Upon consideration of the applicable factors outlined herein, the ALJ concludes that his application for a life agent license be denied at this time. In support of this recommendation, the ALJ makes the following findings of fact and conclusions of law.

### **III. FINDINGS OF FACT**

1. On July 23, 2019, Jesse Juarez applied for a life agent license with the Texas Department of Insurance (Department).
2. On September 6, 2019, the staff (Staff) of the Department proposed to deny his application based on his criminal history.

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<sup>20</sup> Tex. Occ. Code § 53.021(d).

3. Mr. Juarez timely requested a hearing to challenge the denial.
4. On June 22, 2020, Staff issued a notice of hearing on the denial of his application.
5. 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 hearing in this case was held via Zoom videoconference on January 19, 2021, before Administrative Law Judge (ALJ) Steven M. Rivas at the State Office of Administrative Hearings (SOAH). Staff was represented by staff attorney Sydney Moore. Mr. Juarez represented himself. The hearing concluded and the record closed on February 2, 2021, when the ALJ received a copy of the hearing transcript.
7. On April 25, 2012, Mr. Juarez pleaded guilty to arson, a second degree felony in Cause No. F-1251573-M in the 194th Judicial District Court of Dallas County, Texas.
8. The court deferred adjudication of the offense and ordered that Mr. Juarez be placed on community supervision for 10 years. The court also ordered Mr. Juarez to undergo psychological health (anger management) treatment, perform 240 hours of community service, pay a \$750 fine, plus \$344 in court costs, and \$5,000 in restitution.
9. Mr. Juarez has no criminal history other than his guilty plea to arson.
10. The arson offense occurred on January 24, 2012, and was related to a domestic disturbance, which occurred three days earlier.
11. The arson offense was premeditated.
12. Nine years have elapsed since Mr. Juarez's offense.
13. Mr. Juarez was 20 years old at the time of his criminal activity.
14. Mr. Juarez has undergone anger management treatment, and has performed 240 hours of community service.
15. Three people who know Mr. Juarez believe he is a good person who gets along well with other people.
16. Mr. Juarez does not have a record of steady employment either before or after his criminal activity.
17. Mr. Juarez is behind in making his court-ordered restitution payments.

18. Mr. Juarez is not expected to be discharged from deferred adjudication until April 25, 2022.
19. Mr. Juarez's mitigating factors do not outweigh the serious nature of his criminal offense.

#### **IV. 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. Mr. Juarez 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 convicted of a felony. Tex. Ins. Code § 4005.101(b)(8).
5. The Department may consider a person who has pleaded guilty, but whose adjudication has been deferred, to be convicted if the period of supervision is ongoing and the Department determines that the person may pose a continued threat to public safety or the employment of the person in the licensed occupation would create a situation in which he or she has the opportunity to repeat the prohibited conduct. Tex. Occ. Code § 53.021(d).
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 arson is an essential element. 28 Tex. Admin. Code § 1.502(e)(4)(C).
7. The Department will consider the factors listed in Texas Occupations Code §§ 53.022 and 53.023 in determining whether to issue a license to an applicant with a criminal history 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 Tex. Admin. Code § 1.502(g), (h).
8. Mr. Juarez has not shown that he is currently fit to hold a life agent license. Tex. Occ. Code §§ 52.022-023; 28 Tex. Admin. Code § 1.502(h).
9. The Department should deny Mr. Juarez's application for a life agent license.

**SIGNED April 5, 2021.**



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