

2018 - 5658
No. _____

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: OCT 1 1 2018

Subject Considered:

BOBBY RAY MORROW
3413 Griggs Ave.
Fort Worth, Texas 76119

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 16008

General remarks and official action taken:

The subject of this order is whether an adjuster all lines license should be issued to Bobby Ray Morrow (Morrow).

WAIVER

Morrow acknowledges that the Texas Insurance Code and other applicable laws provide certain rights. Morrow waives all of these rights in consideration of the entry of this consent order.

FINDINGS OF FACT

License Application

1. On December 21, 2017, Morrow applied for an adjuster all lines license to be issued by the Texas Department of Insurance.
2. On April 23, 2018, the department proposed to deny Morrow's application based on his criminal history. Morrow timely submitted a written request for a hearing, but this matter was ultimately resolved without a hearing as set forth below.

Criminal History

3. On January 1, 1994, Morrow pleaded guilty to the offense of possession of a controlled substance, a second degree felony, in case no. 0466605A, in the 372nd District Court of Tarrant County, Texas. Morrow was sentenced to 10 years confinement. The confinement was suspended and Morrow was placed on community supervision for a period of 10 years. On May 7, 2001, Morrow's community supervision was terminated early.

4. On January 31, 1994, Morrow pleaded guilty to the offense of theft in the amount of \$750 or more, but less than \$20,000, a third degree felony, in case no. 0513387A, in the 372nd District Court of Tarrant County, Texas. Morrow was sentenced to 10 years confinement. The confinement was suspended and Morrow was placed on community supervision for a period of 10 years to be served concurrently with the sentence rendered in case no. 0466605A. On May 7, 2001, Morrow's community supervision was terminated early.
5. Morrow failed to disclose his criminal history on his license application. Morrow asserts that he failed to disclose his criminal history because he did not believe the department would review criminal history more than 20 years prior, and that he did not intend to defraud the department.

Evidence of Rehabilitation

6. Morrow has cooperated extensively and timely with the department in its investigation of his criminal background. Morrow provided evidence of his rehabilitation to support his fitness for licensure.
7. 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).
8. Pursuant to 28 TEX. ADMIN. CODE § 1.502(e)(1) and 1.502(e)(4)(F), among the crimes the department considers to be of such a serious nature that they are of prime importance in determining fitness for licensure are crimes for which fraud, dishonesty, or deceit is an essential element and theft offenses as described by Penal Code, Chapter 31.
9. Morrow's convictions for possession of a controlled substance and theft in the amount of more than \$750, but less than \$20,000, are included in the crimes the department considers to be of such a serious nature that they are of prime importance in determining fitness for licensure pursuant to 28 TEX. ADMIN. CODE § 1.502(e)(1) and 1.502(e)(4)(F).
10. Pursuant to 28 TEX. ADMIN. CODE § 1.502(f), the department may issue a license if the applicant has engaged in criminal activity described in 28 TEX. ADMIN. CODE § 1.502(e)(1) and 1.502(e)(4)(F) if the commissioner determines that the serious nature of the criminal activity is outweighed by the rehabilitative factors described in 28 TEX. ADMIN. CODE § 1.502(h).
11. 28 TEX. ADMIN. CODE § 1.502(h) specifically tracks the rehabilitative factors listed in TEX. OCC. CODE §§ 53.022 and 53.023 that the department must consider in determining whether those factors outweigh the serious nature of the applicant's criminal history.

12. TEX. OCC. CODE § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1) describe the initial factors the department must consider in determining whether issuance of the license is appropriate:

FACTORS IN DETERMINING WHETHER CONVICTION RELATES TO OCCUPATION. In determining whether a criminal conviction directly relates to an occupation, the licensing authority shall consider:

- (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 licensed 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.
13. Considering the factors outlined in TEX. OCC. CODE ANN. § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1), Morrow's conviction for theft in the amount of more than \$750, but less than \$20,000, directly relates to the occupation of an insurance adjuster because "the special nature of the relationship between licensees...and the public with respect to insurance and related businesses regulated by the department requires that the public place trust in and reliance upon such persons due to the complex and varied nature of insurance and insurance-related products." 28 TEX. ADMIN. CODE §§ 1.502(a), 1.502(e)(1), and 1.502(e)(4)(F).
14. TEX. OCC. CODE ANN. § 53.023 and 28 TEX. ADMIN. CODE § 1.502(h)(2) describe additional factors the department must consider in determining whether issuance of the license is appropriate:

ADDITIONAL FACTORS FOR LICENSING AUTHORITY TO CONSIDER.

- (a) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority shall consider, in addition to the factors listed in Section 53.022:
- (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; and

- (6) other evidence of the person's 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 person in contact with the convicted person.
 - (b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required by Subsection (a)(6).
 - (c) In addition to fulfilling the requirements of Subsection (b), the applicant shall furnish proof in the form required by the licensing authority that the applicant has:
 - (1) maintained a record of steady employment;
 - (2) supported the applicant's dependents;
 - (3) maintained a record of good conduct; and
 - (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.
15. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), Morrow has two convictions which he attributes in part to associating with the wrong crowd and having very little means to support his wife and children. Morrow has accepted responsibility and expressed remorse for his criminal conduct.
16. In consideration of TEX. OCC. CODE § 53.023(a)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(B), Morrow's criminal activity occurred in 1992 and 1993 when he was 26 years old and 27 years old respectively.
17. In consideration of TEX. OCC. CODE § 53.023(a)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(C), it has been over 25 years since Morrow's last criminal activity occurred.
18. In consideration of TEX. OCC. CODE §§ 53.023(a)(4)-(5) and 53.023(c)(1), and 28 TEX. ADMIN. CODE §§ 1.502(h)(2)(D) and 1.502(h)(2)(G)(i), Morrow has provided the department with evidence demonstrating his commitment to rehabilitation while on probation and after probation. Morrow provided the department with a detailed resume and explanation of his employment history. He has been steadily employed since his convictions. After natural disaster struck the Texas coast in 2017, he contracted as a FEMA Housing Inspector where he performed inspections and assessed damage of residences in declared emergency and natural disaster areas. In addition to the contract work with FEMA, he has owned and operated a preventative tire maintenance/roadside assistance company since 2005. Prior to this he spent seven years employed by Bridgestone. He

began his employment with Bridgestone as a tire technician and earned several promotions including supervisory roles over his time with the company.

19. In consideration of TEX. OCC. CODE § 53.023(a)(6) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(F), the department received three letters of recommendation from Morrow's friends and colleagues who describe Morrow both professionally and personally as hard-working, reliable, and trust-worthy. All recommenders have known Morrow for over 30 years.
20. In consideration of TEX. OCC. CODE § 53.023(c)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(ii), Morrow has two children for whom he provides support.
21. In consideration of TEX. OCC. CODE § 53.023(c)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iii), Morrow has maintained a record of good conduct without any criminal activity for the past 25 years. Morrow provided the department with documentation from the 372nd District Court of Tarrant County, Texas, showing that his community supervision terminated early on May 7, 2001.
22. In consideration of TEX. OCC. CODE § 53.023(c)(4) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iv), Morrow has provided the department with evidence that he has paid all court fines and fees in full.
23. The factors described in 28 TEX. ADMIN. CODE § 1.502(h) and TEX. OCC. CODE §§ 53.022 and 53.023 outweigh the serious nature of Morrow's convictions.
24. Due to Morrow'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 an adjuster.

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 4101.051; 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, 28 TEX. ADMIN. CODE § 1.47, and TEX. INS. CODE § 82.055.
3. Morrow 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 services 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. Morrow 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 Morrow's criminal convictions.
6. The commissioner is an insurance regulatory official authorized to regulate Morrow's activities in the business of insurance. The commissioner has primary jurisdiction to grant Morrow written consent to engage or participate in the business of insurance, pursuant to 18 U.S.C. § 1033.

It is ordered that an adjuster all lines license is granted to Bobby Ray Morrow. It is further ordered that the adjuster all lines license is suspended for two years, probated.

If during the probation period imposed by this order, the department issues any additional licenses or authorizations to Morrow, those additional licenses or authorizations 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, Morrow must provide written notice of his criminal record to any employer, company, or other entity on behalf of which he performs the acts of an adjuster. Morrow must provide the department with a copy of the notification within 30 days of being employed or retained to the Texas Department of Insurance, Attn: Catherine Bell or her successor, Enforcement Section, Mail Code 110-1A, P.O. Box 149104, Austin, Texas 78717-9104.

Beginning from the date of this order and continuing through the probation period, Morrow 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, Attn: Catherine Bell or her successor, Enforcement Section, Mail Code 110-1A, P.O. Box 149104, Austin, Texas 78714-9104. The reports must include the following information:

- a. Morrow's current mailing address and telephone number;
- b. the name, mailing address, and telephone number of Morrow's employer, and if Morrow 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 or entity which has employed or contracted with Morrow as an adjuster;
- d. the name and address of any insurer or entity which has terminated Morrow's employment or contract as an adjuster; and
- e. a copy of any and all contracts Morrow has entered into with an insurer, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.

Morrow must notify the department immediately of the following:

- a. any charges or indictments filed against him for a misdemeanor or felony during

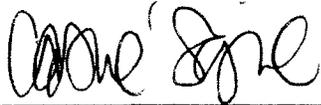
- the period he is required to file reports, excluding traffic offenses and Class C misdemeanors;
- b. any state or regulatory actions taken against him including formal and informal actions;
 - c. any change in his employment or his residence; and
 - d. any complaint made against Morrow concerning his performance as an adjuster, as well as a written explanation detailing the steps taken to resolve it.

Morrow is granted written consent, as contemplated by 18 U.S.C. § 1033(e)(2), to engage or participate in the business of insurance with respect to persons who are domiciled in and risks and subjects of insurance that are resident, located, or to be performed in Texas. This written consent will remain in effect as long as Morrow renews his license. This written consent terminates immediately if any insurance license or authorization held by Morrow is suspended or revoked. The department's written consent set forth here is revoked immediately upon any failure of Morrow to perform any one of the foregoing actions required by this order.



Kent C. Sullivan
Commissioner of Insurance

APPROVED AS TO FORM AND CONTENT:



Cassie Tigie
Staff Attorney, Enforcement Section
Texas Department of Insurance

Affidavit

STATE OF TEXAS §
COUNTY OF Tarrant §
§

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

“My name is Bobby Ray Morrow. 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.”

Bobby R Morrow
Affiant

SWORN TO AND SUBSCRIBED before me on this 18 day of August, 2018.

(NOTARY STAMP)

Brandy Bedolla
Signature of Notary of Public

