

No. 2019-6020

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

**Date: JUL 16 2019**

**Subject Considered:**

Jose Enrique Martin  
130 Shadywood Ln  
San Antonio, Texas 78216-7334

Consent Order  
TDI Enforcement File No. 15780

**General remarks and official action taken:**

The subject of this order is whether a temporary general lines agent license with a life, accident, and health qualification should be issued to Jose Enrique Martin (Martin).

**Waiver**

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

**Findings of Fact**

License Application

1. On December 27, 2017, Martin applied for a temporary general lines agent license with a life, accident, and health qualification to be issued by the Texas Department of Insurance.

Criminal History

2. Martin was an elected city councilman for the city of San Antonio from 2001 to 2003.
3. From 2001 to 2002, the city of San Antonio contemplated awarding a contract for the collection of unpaid fines and fees owed to the city to a third party vendor.

4. A law firm, Heard Linebarger Graham Goggan Blair Pena & Sampson L.L.P. (Heard Linebarger) submitted a bid for the contract. The city council staff, however, recommended a different vendor for the contract.
5. On January 10, 2002, councilman Martin abstained from the city council vote concerning Heard Linebarger's bid. After this vote, Martin conspired with other parties to commit bribery in support of Heard Linebarger's bid.
6. Between March 14, 2002, and April 8, 2002, Martin accepted \$7,500 in cash bribes from Heard Linebarger in exchange for his vote to support the Heard Linebarger bid.
7. On April 18, 2002, after accepting the cash bribes, Martin voted for the Heard Linebarger bid.
8. On August 24, 2004, Martin pleaded guilty to conspiracy to commit bribery, 18 U.S.C. § 371 (2002), a felony. On April 6, 2005, the United States District Court, Western District of Texas, San Antonio Division, ordered Martin imprisoned for 13 months and supervised release for three years in cause no. SA-02-CR-527-RF.
9. On May 24, 2005, Martin pleaded guilty to conspiracy to commit bribery, a 3rd degree felony, in the 175th the District Court of Bexar County, Texas, in cause no. 2002CR6972. The court ordered four years imprisonment. This conviction stemmed from the same acts as his federal conviction and ran concurrently with the sentencing in the federal case.

## Evidence of Rehabilitation

10. Martin cooperated extensively and timely with the department in its investigation of his criminal background. Martin provided evidence of his rehabilitation to support his fitness for licensure.
11. 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).
12. Pursuant to 28 TEX. ADMIN. CODE § 1.502(e)(1), 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.
13. Martin's 2004 and 2005 convictions for conspiracy to commit bribery 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).
  14. 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) 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).
  15. 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.
  16. 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.
17. Considering the factors outlined in TEX. OCC. CODE § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1), Martin's 2004 and 2005 convictions for conspiracy to commit bribery directly relate to the occupation of an insurance agent 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).

18. TEX. OCC. CODE § 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.
19. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), Martin has two convictions, both stemming from the same conduct.
20. In consideration of TEX. OCC. CODE § 53.023(a)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(B), Martin's two convictions that stemmed from the same conduct, occurred in 2004 and 2005 when he was 38 and 39 years old.
21. In consideration of TEX. OCC. CODE § 53.023(a)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(C), it has been about 15 years since Martin's federal conviction and about 14 years since his state conviction.
22. 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), 1.502(h)(2)(E), and 1.502(h)(2)(G)(i), Martin has provided the department with evidence demonstrating his commitment to rehabilitation.
- a. Martin has provided the department with a detailed resume and explanation of his employment history. He has been steadily employed before and after his conviction. Since 2006, Martin has worked as an Operations Manager at a religious bookstore. At his current job, he handles large sums of money and personal information on a daily basis, for which he has reported there have been no issues. In addition, he is responsible for maintaining cash drawers, preparing daily receipts for deposit, maintaining the sales ledger, and assisting with all financial paperwork required by the company's bookkeeper to maintain state and federal records.
  - b. Since 2009, Martin has volunteered as a guest speaker in an Ethics class in the master's in public administration program at St. Mary's University. He talks about his conviction to help students avoid similar mistakes.

- c. Martin previously held a general lines license with a property and casualty qualification for eight years, without issue. The license expired prior to Martin's convictions.
  
23. In consideration of TEX. OCC. CODE § 53.023(a)(6) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(F), the department received 13 letters of recommendation, including letters from:
  - a. Martin's current employer, who has known Martin since he was a young boy and confirms knowledge of Martin's criminal history. He states that Martin is good, honest, an upstanding member of the community, and that Martin is fully trusted with financial duties at the store. He states that Martin made a mistake in his past and has since paid for his mistake.
  - b. A Texas state senator, who has known Martin since 1997, describes Martin as someone who is hardworking, displays a character of honesty and integrity, and is dedicated to his family, church, and job. He confirms knowledge of Martin's criminal history and states that Martin is the epitome of restorative justice.
  - c. A shift director for the San Antonio Police Department, who has known Martin for 11 years, states that Martin has a positive attitude and demeanor, gives his time to the community, and is dedicated to his church and his family. He confirms knowledge of Martin's criminal history.
  - d. A former co-worker and district manager from Southern Life & Health Insurance Company describes Martin as an honest man and a person of good moral character. He states that when Martin worked under his supervision, Martin displayed the utmost honesty and integrity in his job duties. He confirms knowledge of Martin's criminal history and states that Martin is dedicated to overcoming his past mistakes. He states that Martin mentors and publicly speaks about his criminal convictions to enforce the importance of honesty and integrity in what we do in life.
  - e. Martin's potential future employer, a licensed agent at Colonial Life, has known Martin for 10 years. He confirms knowledge of Martin's criminal history and states that Martin has paid his debt to society and exemplifies a model citizen and a productive and contributing member of society. He confirms that if Martin is licensed, he will have his full endorsement to become an agent for Colonial Life.

24. In consideration of TEX. OCC. CODE § 53.023(c)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(ii), Martin has supported and currently supports his three children.
25. In consideration of TEX. OCC. CODE § 53.023(c)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iii), Martin has maintained a record of good conduct without any criminal convictions since his 2004 and 2005 convictions. Martin's probation ended on March 18, 2008. Martin was also previously licensed with the department for eight years, without any issues. Martin is a veteran.
26. In consideration of TEX. OCC. CODE § 53.023(c)(4) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iv), Martin has provided the department with evidence that he has paid all court costs in full.
27. 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 Martin's 2004 and 2005 convictions.
28. Due to Martin'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 insurance 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 4051.051; 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. Martin 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. Martin committed an act for which the department may deny a license under TEX. INS. CODE §§ 4001.105 and 4005.101(b)(8).

5. Pursuant to 28 TEX. ADMIN. CODE § 1.502(f), the factors in TEX. OCC. CODE §§ 53.022-53.023 outweigh the serious nature of Martin's criminal convictions.
6. The commissioner is an insurance regulatory official authorized to regulate Martin's activities in the business of insurance. The commissioner has primary jurisdiction to grant Martin written consent to engage or participate in the business of insurance, pursuant to 18 U.S.C. § 1033.

## Order

It is ordered that a temporary general lines agent license with a life, accident and health qualification is granted to Jose Enrique Martin. It is further ordered that the temporary general lines agent license with a life, accident and health qualification is suspended for four years, probated.

If, during the probation period imposed by this order, the department issues any additional licenses or authorizations to Martin, 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, Martin must provide written notice of his criminal record to any appointing company, agency, employer, sponsor, or other entity on behalf of which he performs the acts of an insurance agent. Martin 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, Martin must file a written report, on or before the 15th day of each 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. Martin's current mailing address and telephone number;
- b. the name, mailing address, and telephone number of Martin's employer, and if Martin 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 Martin as an agent;

- d. the name and address of any insurer which has canceled Martin's appointment as an agent; and
- e. a copy of any and all contracts Martin has entered into with an insurer, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.

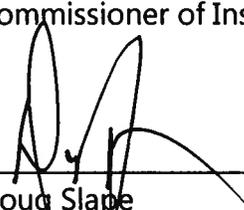
Martin must notify the department immediately of the following by emailing [EnforcementReports@tdi.texas.gov](mailto:EnforcementReports@tdi.texas.gov):

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

Written consent, as contemplated by 18 U.S.C. § 1033(e)(2), is granted for Martin 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 Martin maintains a license or authorization issued by the department. This written consent terminates immediately if any insurance license or authorization held by Martin is suspended or revoked.

Kent C. Sullivan  
Commissioner of Insurance

By: \_\_\_\_\_

  
Doug Slape  
Chief Deputy Commissioner  
Commissioner's Order No. 2018-5528

Recommended and reviewed by:



Leah Gillum, Associate Commissioner  
Enforcement Section



Sarah White, Staff Attorney  
Enforcement Section

