

No. 2019- 6148

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

**Date:** NOV 18 2019

**Subject Considered:**

Texas Department of Insurance

v.

Dekiesha Lovette Dillard-Rudd

SOAH Docket No. 454-19-4400.C

**General remarks and official action taken:**

The subject of this order is the application of Dekiesha Lovette Dillard-Rudd for an Adjuster All Lines license.

**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 Ms. Dillard-Rudd's application for an Adjuster All Lines license. 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, and TDI adopts the administrative law judge's recommendation that Ms. Dillard-Rudd's application for licensure be denied.

**Findings of Fact**

The findings of fact contained in Exhibit A are adopted by the Texas Department of Insurance and incorporated by reference into this order.

2019- 6148

COMMISSIONER'S ORDER  
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### **Conclusions of Law**

The conclusions of law contained in Exhibit A are adopted by the Texas Department of Insurance and incorporated by reference into this order.

### **Order**

It is ordered that Dekiesha Lovette Dillard-Rudd's application for an Adjuster All Lines License is denied.

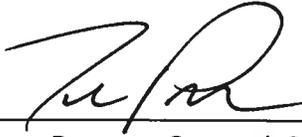
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Kent C. Sullivan  
Commissioner of Insurance

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COMMISSIONER'S ORDER  
TDI v. Dekiesha Lovette Dillard-Rudd  
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Recommended and reviewed by:

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James Person, General Counsel

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Justin Beam, Assistant General Counsel



SOAH DOCKET NO. 454-19-4400.C  
TDI ENFORCEMENT FILE NO. 14848

**DEKIESHA LOVETTE  
DILLARD-RUDD,  
Applicant**

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**BEFORE THE STATE OFFICE**

**OF**

v.

**TEXAS DEPARTMENT  
OF INSURANCE,  
Respondent**

**ADMINISTRATIVE HEARINGS**

**PROPOSAL FOR DECISION**

The staff (Staff) of the Texas Department of Insurance (Department) seeks to deny the application of Dekiesha Lovette Dillard-Rudd for an Adjuster All Lines License based on her criminal history. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends the Department deny Ms. Dillard-Rudd’s application.

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

The hearing was held on July 31, 2019, before ALJ Steven M. Rivas at the State Office of Administrative Hearings (SOAH) in Austin, Texas. Staff was represented by staff attorney Jeannie Ricketts. Ms. Dillard-Rudd represented herself. The hearing concluded and the record closed on August 19, 2019, when the ALJ received a transcript of the hearing. Notice and jurisdiction were not disputed and are set out in the Findings of Fact and Conclusions of Law.

**II. DISCUSSION**

**A. Background**

On July 21, 2017, Ms. Dillard-Rudd applied for an adjuster All Lines License with the Department wherein she disclosed her criminal history. On September 11, 2017, the Department proposed to deny her application. On September 16, 2017, Ms. Dillard-Rudd requested a hearing, and this matter was referred to SOAH for a hearing on the merits.

**B. Applicable Law<sup>1</sup>**

The Department may deny a license to an applicant who has engaged in fraudulent or dishonest acts or has been convicted of a felony.<sup>2</sup> The Department shall not issue a license to an applicant who has committed a felony or misdemeanor, or engaged in fraudulent or dishonest activity that directly relates to the duties and responsibilities of the licensed occupation unless the commissioner finds that the factors set out below<sup>3</sup> outweigh the serious nature of the criminal offense when viewed in light of the occupation being licensed.<sup>4</sup> The factors to be considered in determining whether a conviction directly relates to the occupation are:

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.<sup>5</sup>

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;

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<sup>1</sup> The Legislature recently amended Texas Occupations Code §§ 53.022 and 53.023, effective September 1, 2019. However, the amendments pertain only to applications submitted after the effective date. The prior versions of §§ 53.022 and 53.023 apply in this case. See Acts 2019, 86th Leg., Ch. 765 (HB 1342), § 14-15, eff. Sept. 1, 2019.

<sup>2</sup> Tex. Ins. Code § 4005.101(b)(5) and (8); 28 Tex. Admin. Code § 1.502(d).

<sup>3</sup> Tex. Occ. Code §§ 53.022 and 53.023 as incorporated in 28 Tex. Admin. Code § 1.502(h).

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

<sup>5</sup> Tex. Occ. Code § 53.022 (since amended, eff. Sept. 1, 2019) and 28 Tex. Admin. Code § 1.502(h)(1).

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 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.<sup>6</sup>
7. An applicant has the responsibility of furnishing proof that he 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>

### C. Evidence

Staff offered 14 exhibits, which were all admitted. These exhibits included Ms. Dillard-Rudd's application, information she provided about her convictions, and 28 letters of recommendation that she previously submitted to the Department as part of her license application.

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<sup>6</sup> Tex. Occ. Code § 53.023(a) (since amended, eff. Sept. 1, 2019), 28 Tex. Admin. Code § 1.502(h)(2) (A)-(F).

<sup>7</sup> Tex. Occ. Code § 53.023(b) (since amended, eff. Sept. 1, 2019), 28 Tex. Admin. Code § 1.502(h)(2)(G).

Staff called one witness, Mr. Lewis Weldon Wright IV, an insurance regulator with the Department. Ms. Dillard-Rudd testified on her own behalf but offered no additional exhibits apart from the letters of recommendation that were admitted as Staff's exhibits.

### 1. Ms. Dillard-Rudd's Criminal History

According to court records offered by Staff, Ms. Dillard-Rudd's criminal history consists of the following:<sup>8</sup>

- On April 14, 2000, Ms. Dillard-Rudd pleaded *nolo contendere* to theft (by check), a Class B misdemeanor in Case No. MB9911329-G in the Dallas County Criminal Court No. 6, for an incident that occurred on November 9, 1998. The court sentenced her to 90 days of confinement followed by 12 months of probation, and ordered her to pay \$609.64 in restitution.<sup>9</sup>
- On April 14, 2000, Ms. Dillard-Rudd pleaded guilty to forgery, a State Jail Felony in Case No. F9972544-MV in the 292nd District Court of Dallas County, Texas, for an incident that occurred on August 31, 1999. The court sentenced her to 5 years of probation, ordered her to complete 120 hours of community service and ordered her to pay a \$500 fine and a \$40 monthly probation fee.<sup>10</sup> On August 5, 2002, the court issued an order adjudicating guilt and convicting her of felony forgery because she failed to comply with the terms of her probation. She was then sentenced to 180 days of confinement and ordered to pay a \$500 fine.<sup>11</sup>
- On November 22, 2004, Ms. Dillard-Rudd pleaded *nolo contendere* to theft (by shoplifting), a Class B misdemeanor in Case No. MB0034318-B in the Dallas County Criminal Court No. 2, for an incident that occurred on June 30, 2000.<sup>12</sup> The court convicted her and sentenced her to 90 days of confinement.<sup>13</sup>

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<sup>8</sup> Staff Exs. 7-13.

<sup>9</sup> Staff Ex. 7 at 170-79.

<sup>10</sup> Staff Ex. 8 at 186-208.

<sup>11</sup> *Id.* at 209-220.

<sup>12</sup> Staff Ex. 9 at 229.

<sup>13</sup> *Id.*

- On October 10, 2005, Ms. Dillard-Rudd pleaded *nolo contendere* to theft (by shoplifting), a Class B misdemeanor in Case No. MB0518609-A in the Dallas County Criminal Court No. 1, for an incident that occurred on June 21, 2005.<sup>14</sup> The court convicted her and sentenced her to 45 days of confinement.<sup>15</sup>
- On May 30, 2007, Ms. Dillard-Rudd pleaded *nolo contendere* to theft (by retaining items without paying), a Class B misdemeanor in Case No. MA-0544483-A in the Dallas County Criminal Court No. 5, for an incident that occurred on July 5, 2005.<sup>16</sup> The court convicted her and sentenced her to 45 days of confinement.<sup>17</sup>
- On July 15, 2008, Ms. Dillard-Rudd pleaded *nolo contendere* to theft (by shoplifting), a Class B misdemeanor in Case No. MB-0760850-A in the County Criminal Court of Dallas County, for an incident that occurred on August 29, 2007.<sup>18</sup> The court convicted her and sentenced her to 30 days of confinement.<sup>19</sup>
- On August 20, 2009, Ms. Dillard-Rudd pleaded *nolo contendere* to theft (by check), a Class B misdemeanor in Case No. MB0704095-A in the County Criminal Court of Dallas County, for an incident that occurred on June 11, 2006.<sup>20</sup> The court deferred adjudication of the offense for 12 months and ordered her to pay \$1,317 in restitution, and to perform 24 hours of community service.<sup>21</sup> The court dismissed the deferred adjudication on September 5, 2017.<sup>22</sup>

## 2. Testimony of Ms. Dillard-Rudd

Ms. Dillard-Rudd asserted that the court records provided by Staff are not accurate. She argued that the judgments for theft by check, shoplifting, and forgery arose from one single incident. The only other incident she committed was retaining property without paying. She stated the item in question was furniture that she obtained from Colortyme. She admitted that she failed

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<sup>14</sup> Staff Ex. 10 at 239.

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

<sup>16</sup> Staff Ex. 11 at 242-45.

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

<sup>18</sup> Staff Ex. 12 at 248-50.

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

<sup>20</sup> Staff Ex. 13 at 255-57.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

to make the required “rent-to-own” payments. As for the other incidents of theft, she testified that she committed those offenses in order to provide for her daughter.

She further testified that, for all of her adult life, she has been employed in various occupations including bus operator for Houston Metro and hair stylist. She stated that she has a license to practice cosmetology in Texas, and does so privately for extra income or for no pay. She said that currently, she works out of her home as a customer service representative for Apple.

### 3. Letters of Recommendation

Staff offered into evidence 28 letters of recommendation that were submitted to the Department with the application. The following excerpts are from letters written on April 2, 2019:

- Ke’Angela Rudd-Dunn, Ms. Dillard-Rudd’s daughter wrote that although her mother has made mistakes, she has completely changed her life and now sets a good example for her daughters.<sup>23</sup>
- LaShonda Jackson, a licensed claims adjuster wrote she has known Ms. Dillard-Rudd for 20 years and has watched her grow into an awesome mother and business woman.<sup>24</sup>
- Shirley E. Taylor, Ms. Dillard-Rudd’s aunt wrote that she has seen Ms. Dillard-Rudd struggle and overcome many obstacles in her life. She also noted that Ms. Dillard-Rudd has always been dedicated to her daughters and has become a productive member of society.<sup>25</sup>
- Gia Jones, an advisor with Austin Community College, wrote that she has known Ms. Dillard-Rudd for 15 years and, in that time, has come to know Ms. Dillard-Rudd as an outstanding person who is a hard worker with much zeal and determination.<sup>26</sup>

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<sup>23</sup> Staff Ex. 5 at 118.

<sup>24</sup> Staff Ex. 5 at 119.

<sup>25</sup> Staff Ex. 5 at 120, 123.

<sup>26</sup> Staff Ex. 5 at 121.

- Kwjuan Wade, a licensed claims adjuster wrote she has known Ms. Dillard-Rudd for 7 years and believes Ms. Dillard-Rudd is a hard worker who helps others make the right choices in their lives.<sup>27</sup>
- Alexander Delgadillo, a former co-worker, wrote that he worked with Ms. Dillard-Rudd as a truck driver in 2018. He noted that Ms. Dillard-Rudd was a reliable and well-respected employee was always willing to help others on the job.<sup>28</sup>

The remaining letters were either addressed to the Texas Board of Pardons and Paroles,<sup>29</sup> were duplicate letters authored by the same person, which contained the same or similar material,<sup>30</sup> or were written more than 2 years ago, and as such, do not reflect Ms. Dillard-Rudd's present fitness for licensure.<sup>31</sup>

#### 4. Testimony of Mr. Wright

Mr. Wright testified that Ms. Dillard-Rudd's application was brought to his attention because of her criminal history. Mr. Wright explained that Ms. Dillard-Rudd was charged with one felony and several misdemeanors all involving fraudulent or dishonest acts.

Mr. Wright stated insurance agents need to be honest, trustworthy, and reliable to protect consumers. The insurance industry is complex, and many times consumers will not understand the mechanisms of the products they are buying, so they rely on the agent to provide information about the insurance products. Mr. Wright testified that although the statutes and rules do not provide a framework for an amount of years after which previous incidents would no longer be considered, a period of 2 years is insufficient. After careful consideration, Mr. Wright concluded that Ms. Dillard-Rudd's application should be denied.

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<sup>27</sup> Staff Ex. 5 at 31.

<sup>28</sup> Staff Ex. 5 at 134.

<sup>29</sup> Staff Ex. 4 at 78, 79, 82, 84, 85 were addressed to the Texas Board of Pardons and Paroles.

<sup>30</sup> Staff Ex. 4 at 72, 81, 78, 83, 74, 85. *See also* Staff at Ex. 5 at 120, and 123-24.

<sup>31</sup> Staff Ex. 4 at 73, 74, 76, 77, 80. *See also* Staff Ex. at 75, a letter that was dated July 15, 2016—one year before Ms. Dillard-Rudd applied for the license at issue.

### III. ANALYSIS

Under Texas Insurance Code § 4005.101(b)(5) and (8), the Department may deny a license application if the Department determines that the applicant has engaged in fraudulent or dishonest acts or has been convicted of a felony. The Department's rule at 28 Texas Administrative Code § 1.502(f) further provides that the Department shall not issue a license to an applicant who has committed a felony or misdemeanor, or engaged in fraudulent or dishonest activity that directly relates to the duties and responsibilities of the licensed occupation. In this case, the evidence reflects that Ms. Dillard-Rudd committed several misdemeanor offenses involving theft by check and shoplifting. The evidence also establishes that Ms. Dillard-Rudd committed a felony for forgery. The court documents offered by Staff establish Ms. Dillard-Rudd's lengthy criminal history of performing fraudulent acts. Although Ms. Dillard-Rudd argued that some of the judgments against her stemmed from the same incident, she could not explain how each court record had a separate and unique case number; nor could she explain why each incident had a corresponding police report showing different dates, locations, and arresting agencies involved in each incident.

Despite the disqualifying language, the Department must consider the factors listed in Texas Occupations Code § 53.023 and 28 Texas Administrative Code § 1.502(f) in determining whether to grant Ms. Dillard-Rudd's license application.

Ms. Dillard-Rudd's extensive criminal history is comprised of serious and fraudulent crimes that cause the Department to be concerned about her fitness to act as an insurance agent. Although it has been 12 years since Ms. Dillard-Rudd last committed an offense, she committed 7 different offenses involving fraud over a 9-year period beginning in 1998. The seriousness and extent of Ms. Dillard-Rudd's criminal history outweighs any mitigating evidence she could have presented. Additionally, it has been only 2 years since the court dismissed the charges of her last offense. The ALJ agrees with Mr. Wright's determination that 2 years is an insufficient period of time to establish a record of good conduct. In addition, the ALJ is concerned that, instead of accepting responsibility for her actions Ms. Dillard-Rudd argued that her criminal activity was much less serious, despite the overwhelming evidence to the contrary.

Ms. Dillard-Rudd appears to have changed her behavior and has made good choices over the past 2 years. The letters of recommendation offered in this case demonstrate she has a good work ethic, and has become a respected and valued member of her community. These qualities should serve her well moving forward.

However, the ALJ finds that the seriousness and extent of her criminal activity far outweighs any evidence that may show fitness for licensure. After considering the factors listed in Texas Occupations Code § 53.023, ALJ finds Ms. Dillard-Rudd is not currently fit to perform the duties and responsibilities of a licensed insurance agent. Therefore, the ALJ concludes the Department should deny her application for an Adjuster All Lines License.

#### IV. FINDINGS OF FACT

1. On July 21, 2017, Dekiesha Lovette Dillard-Rudd applied for an adjuster All Lines License with the Texas Department of Insurance (Department).
2. On September 11, 2017, the Department proposed to deny her application.
3. On September 16, 2017, Ms. Dillard-Rudd requested a hearing, and this matter was referred to State Office of Administrative Hearings (SOAH) for a hearing on the merits.
4. On May 2, 2019, the Department issued to Ms. Dillard-Rudd a notice of hearing on the denial of her 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 incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
6. On July 31, 2019, the hearing on the merits convened before Administrative Law Judge (ALJ) Steven M. Rivas at SOAH in Austin, Texas. Staff was represented by staff attorney Jeannie Ricketts. Ms. Dillard-Rudd represented herself. The hearing concluded and the record closed on August 19, 2019, when the ALJ received a transcript of the hearing.

7. On April 14, 2000, Ms. Dillard-Rudd pleaded *nolo contendere* to theft (by check), a Class B misdemeanor in Case No. MB9911329-G in the Dallas County Criminal Court No. 6, for an incident that occurred on November 9, 1998. The court sentenced her to 90 days of confinement followed by 12 months of probation, and ordered her to pay \$609.64 in restitution.
8. On April 14, 2000, Ms. Dillard-Rudd pleaded guilty to forgery, a State Jail Felony in Case No. F9972544-MV in the 292nd District court of Dallas County, Texas, for an incident that occurred on August 31, 1999. The court sentenced her to 5 years of probation, ordered her to complete 120 hours of community service and ordered her to pay a \$500 fine and a \$40 monthly probation fee.
9. On August 5, 2002, the court issued an order adjudicating guilt and convicting her of felony forgery because she failed to comply with the terms of her probation. She was sentenced to 180 days of confinement and ordered to pay a \$500 fine.
10. On November 22, 2004, Ms. Dillard-Rudd pleaded *nolo contendere* to theft (by shoplifting), a Class B misdemeanor in Case No. MB0034318-B in the Dallas County Criminal Court No. 2, for an incident that occurred on June 30, 2000. The court convicted her and sentenced her to 90 days of confinement.
11. On October 10, 2005, Ms. Dillard-Rudd pleaded *nolo contendere* to theft (by shoplifting), a Class B misdemeanor in Case No. MB0518609-A in the Dallas County Criminal Court No. 1, for an incident that occurred on June 21, 2005. The court convicted her and sentenced her to 45 days of confinement.
12. On May 30, 2007, Ms. Dillard-Rudd pleaded *nolo contendere* to theft (by retaining items without paying), a Class B misdemeanor in Case No. MA-0544483-A in the Dallas County Criminal Court No. 5, for an incident that occurred on July 5, 2005. The court convicted her and sentenced her to 45 days of confinement.
13. On July 15, 2008, Ms. Dillard-Rudd pleaded *nolo contendere* to theft (by shoplifting), a Class B misdemeanor in Case No. MB-0760850-A in the County Criminal Court of Dallas County, for an incident that occurred on August 29, 2007. The court convicted her and sentenced her to 30 days of confinement.
14. On August 20, 2009, Ms. Dillard-Rudd pleaded *nolo contendere* to theft (by check), a Class B misdemeanor in Case No. MB0704095-A in the County Criminal Court of Dallas County, for an incident that occurred on June 11, 2006. The court deferred adjudication of the offense for 12 months and ordered her to pay \$1,317 in restitution, and to perform 24 hours of community service. The court dismissed the deferred adjudication On September 5, 2017.
15. More than 12 years have passed since Ms. Dillard-Rudd last committed a crime.

16. Two years have passed since Ms. Dillard-Rudd's last charge was dismissed.
17. Ms. Dillard-Rudd has not had the opportunity to establish a record of good conduct.
18. Ms. Dillard-Rudd has worked steadily in various industries, and has not been charged with any further crimes since 2007.
19. The letters of recommendation which came from family members, acquaintances, and insurance industry professionals reflect Ms. Dillard-Rudd has a good work ethic and has become a valued and respected member of her community.

#### V. 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. Dillard-Rudd 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 Department determines that the applicant has engaged in fraudulent or dishonest acts or has been convicted of a felony. Tex. Ins. Code § 4005.101(b)(5) and (8).
5. Ms. Dillard-Rudd's felony conviction for forgery directly relates to the duties and responsibilities of the licensed occupation. Texas Occupations Code § 53.022 Tex. Occ. Code § 53.022 (since amended, eff. Sept. 1, 2019), 28 Tex. Admin. Code § 1.502(h).
6. Ms. Dillard-Rudd has not shown the fitness required to perform the duties and discharge the responsibilities of a licensed insurance agent. Tex. Occ. Code § 53.023; 28 Tex. Admin. Code § 1.502(h)(2).
7. The Department should deny Ms. Dillard-Rudd's application.

**SIGNED October 17, 2019.**



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