

No. 2020-6405

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

Date: 07/24/2020

Subject Considered:

Danny Trevino
601 Manchester Drive
Mansfield, Texas 76063-2892

Consent Order
TDI Enforcement File No. 18098

General remarks and official action taken:

This is a consent order with Danny Trevino (Trevino). The Texas Department of Insurance (the department) proposed to deny Trevino's license application based upon his criminal history. The department proposes to grant a license to Trevino subject to a four-year probated suspension with specific terms and conditions.

Waiver

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

Findings of Fact

License Application

1. On September 21, 2018, Trevino applied for a general lines agent license with a life, accident, and health qualification to the department.

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2. The department proposed to deny Trevino's application on December 11, 2018, based on his criminal history.
3. Trevino appealed that decision and made a written request for a hearing.

Criminal History

4. On June 5, 2000, Trevino pled guilty to money laundering, a class C felony, in the United States District Court, Northern District of Texas, Fort Worth Division, in case number 4:99-CR-205-Y. Trevino was sentenced to 60 months imprisonment and supervised release for a term of three years. On December 20, 2001, the court reduced Trevino's sentence of imprisonment to 35 months.
5. On May 13, 2005, the court ordered that Trevino was discharged from supervision in case number 4:99-CR-205-Y.
6. On July 28, 2008, Trevino pled guilty to obstructing a highway/passageway, a Class B misdemeanor, in the County Criminal Court at Law No. 4, Tarrant County, Texas, in case number 1101731, and was placed on community supervision for twenty-four months.
7. On August 17, 2010, the court ordered Trevino was discharged from supervision in case number 1101731.

Evidence of Rehabilitation

8. Trevino has cooperated extensively and timely with the department in its investigation of his criminal background. Trevino provided evidence of his rehabilitation to support his fitness for licensure.
9. 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).
10. Pursuant to 28 TEX. ADMIN. CODE § 1.502(e)(1) and (e)(3), among the crimes the department considers to be of such a serious nature that they are of prime

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- importance in determining fitness for licensure are crimes for which fraud, dishonesty, or deceit is an essential element.
11. Trevino's conviction for money laundering is 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)(3).
 12. 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)(3) 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).
 13. 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.
 14. 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:
 - (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 or capacity required to perform the duties and discharge the responsibilities of the licensed occupation.
 15. Considering the factors outlined in TEX. OCC. CODE ANN. § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1), Trevino's conviction for money laundering directly relates to the occupation of a general lines 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

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insurance-related products." 28 TEX. ADMIN. CODE §§ 1.502(a), 1.502(e)(1), and 1.502(e)(4)(F).

16. 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) If a licensing authority determines under Section 53.022 that a criminal conviction directly relates to the duties and responsibilities of a license occupation, the licensing authority shall consider the following in determining whether to take an action authorized by Section 53.021:
- (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.
- (b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations described by Subsection (a)(7).
17. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), Trevino has a money laundering conviction which he attributes in part to associating with an old friend and making a very bad choice. Trevino has accepted responsibility, expressed remorse for his criminal conduct, and has paid his debt to society.
18. In consideration of TEX. OCC. CODE § 53.003(a) and (b), Trevino was convicted of money laundering, a serious offense, the court discharged him from the sentence,

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and Trevino seeks this insurance license to enhance his employment opportunities, and to better provide for his family.

19. In consideration of TEX. OCC. CODE § 53.023(a)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(B), Trevino's criminal activity occurred in 1999 and 2008 when he was 30 years old and 39 years old, respectively.
20. In consideration of TEX. OCC. CODE § 53.023(a)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(C), it has been nearly 12 years since Trevino's last criminal activity occurred and approximately 21 years since his felony conviction directly related to the business of insurance.
21. In consideration of TEX. OCC. CODE § 53.023(a)(4)-(5), and 28 TEX. ADMIN. CODE §§ 1.502(h)(2)(D) and 1.502(h)(2)(G)(i), Trevino has provided the department with evidence demonstrating his commitment to rehabilitation while on parole and after parole. Trevino provided the department with a detailed resume and explanation of his employment history. He has been steadily employed since his parole. Trevino has worked as a restaurant manager from 2002 through 2008. Trevino worked as construction foreman for Roadway Construction from 2008 to 2010. Trevino worked as project manager and supervisor for Mooring USA from 2010 to 2012. In 2012, Trevino started his own fire restoration and remodeling business and has been serving his customers to the present.
22. In consideration of TEX. OCC. CODE § 53.023(a)(7) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(F), the department received multiple letters of recommendation from Trevino's family, friends and colleagues who describe Trevino both professionally and personally as hard-working, reliable, and trust-worthy. Many of the recommenders have known Trevino for over 20 years. The federal judge who sentenced Trevino submitted a letter stating he did not object to him getting an insurance license. A letter from State Representative Ramon Romero, Jr. related that he has known Trevino for over 25 years, that he has learned from his past mistakes, that he is involved in volunteering in their community and church, and that he has served his debt to society and deserves to be given another chance. He unequivocally supports Trevino in his effort to become a licensed insurance agent.
23. In consideration of 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(ii), Trevino has been married for nine years, has a seven-year-old daughter, and a four-year-old son for whom he provides support. Trevino has also purchased a home where they all live, and they go to church.

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24. In consideration of TEX. OCC. CODE § 53.023(a)(3) and (6) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iii), Trevino has maintained a record of good conduct without any criminal activity for nearly 12 years. Trevino provided the department with documentation from the United States District Court, Northern District of Texas, Fort Worth Division, showing that his case was dismissed.
25. In consideration of TEX. OCC. CODE § 53.023(a)(6) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iv), Trevino has provided the department with evidence that he has paid all court fines and fees in full.
26. 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 Trevino's conviction.
27. Due to Trevino'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 insurance service representative.
28. The department received letters of recommendation from Trevino's family, friends, and colleagues who describe Trevino both professionally and personally as hard-working, reliable, and trustworthy.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051–82.055, 84.021–84.044, 4001.002, 4005.101, 4005.102, and 4054.051; 28 TEX. ADMIN. CODE § 1.502; TEX. OCC. CODE §§ 53.021–53.023; and TEX. GOV'T CODE §§ 2001.051–2001.178.
2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. Trevino 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.

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4. 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 Trevino's criminal conviction.
5. The commissioner is an insurance regulatory official authorized to regulate Trevino's activities in the business of insurance. The commissioner has primary jurisdiction to grant Trevino written consent to engage or participate in the business of insurance, pursuant to 18 U.S.C. § 1033.

Order

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

If, during the probation period imposed by this order, the department issues any additional licenses or authorizations to Trevino, 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, Trevino must provide written notice of his criminal record to any employer, company, or other entity on behalf of which he performs the acts of a general lines agent. Trevino 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.

Beginning from the date of this order and continuing through the probation period, Trevino 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. The reports must include the following information:

- a. Trevino's current mailing address and telephone number;
- b. the name, mailing address, and telephone number of Trevino's employer, and if Trevino is self-employed, a statement that he is self-employed and the name, mailing address, and telephone number of his business;

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

Trevino must notify the department immediately of the following by emailing 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 Trevino concerning his performance as a general lines 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 Trevino 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 if Trevino maintains a license or authorization issued by the department. This written consent terminates immediately if any insurance license or authorization held by Trevino is suspended or revoked.

Kent C. Sullivan
Commissioner of Insurance

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

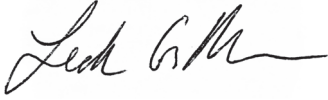
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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division

/s/ Patrick Quigley

Patrick Quigley, Staff Attorney
Enforcement Division

Affidavit

STATE OF Texas §

COUNTY OF Tarrant §

Before me, the undersigned authority, personally appeared Danny Trevino, who being by me duly sworn, deposed as follows:

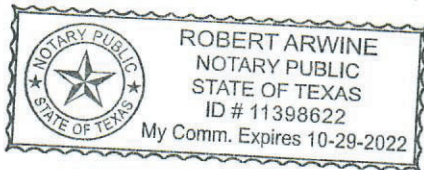
"My name is Danny Trevino. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

I have knowingly and voluntarily entered into the foregoing 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."

Danny Trevino
Affiant

SWORN TO AND SUBSCRIBED before me on June 19, 2020.

(NOTARY SEAL)



Robert L Arwine
Signature of Notary Public

Robert L. Arwine
Printed Name of Notary Public