

No. **2021-6840**

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

Date: 05/20/2021

Subject Considered:

Irma G. Sanchez
9021 Curacao Dr.
Fort Worth, Texas 76123-3591

Consent Order
SOAH Docket No. 454-21-1093
TDI Enforcement File No. 25980

General remarks and official action taken:

This is a consent order with Irma G. Sanchez (Sanchez), who applied for a general lines agent license with a life, accident, and health qualification. The department proposed to deny the license due to Sanchez's criminal history. Sanchez has provided rehabilitative evidence that outweighs the serious nature of her criminal history. This order grants a general lines agent license with a life, accident, and health qualification to Sanchez subject to the terms of the two-year probated suspension detailed in this order.

Waiver

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

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Findings of Fact

Background

1. Texas Insurance Code Chapter 4001, Subchapter D gives the department authority to issue a temporary agent license to an applicant who is being considered for appointment as an agent by another agent, insurer, or HMO.
2. Texas Insurance Code Section 4001.153 specifically states: "The department *shall issue* a temporary license immediately on receipt of a properly completed application . . ." (emphasis added). If the applicant submits a properly completed application, the department must issue the temporary license and has no discretion to deny it.
3. On March 24, 2020, the department issued Commissioner's Bulletin No. B-0008-20 in response to Governor Abbott's suspension of certain licensing requirements and fees to cope with the COVID-19 pandemic. The bulletin provided a temporary waiver of testing, fingerprints, and additional fees associated with licensure. The bulletin also stated the temporary licenses issued would remain active until further notice.

Temporary Agent License Application

4. On April 1, 2020, Sanchez applied for a temporary general lines agent license with a life, accident, and health qualification to be issued by the department. Sanchez did not disclose her criminal history on this application.
5. Sanchez did not disclose her criminal history because she mistakenly believed her record had been completely sealed by the court.
6. Pursuant to the legislative mandate in Section 4001.153 of the Texas Insurance Code, the department issued Sanchez a temporary general lines agent license with a life, accident, and health qualification on April 8, 2020.

Permanent Agent License Application

7. On June 24, 2020, Sanchez applied for a general lines agent license with a life, accident, and health qualification to be issued by the department. Sanchez did not

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disclose her criminal history on her permanent license application for the same reason she stated she failed to disclose it on her temporary license application above.

8. On September 17, 2020, the department proposed to deny Sanchez's general lines agent application based on Sanchez's criminal history. Sanchez timely submitted a written request for a hearing, but this matter was ultimately resolved without a hearing as set forth below.

Criminal History

9. On or around January 9, 2000, Sanchez attended a party with her then boyfriend. When Sanchez was ready to leave the party, her boyfriend gave her the keys to the vehicle Sanchez believed belonged to her boyfriend. She later learned that the vehicle belonged to her boyfriend's aunt which resulted in the charge described below.
10. On November 8, 2001, Sanchez was placed on deferred adjudication for the offense of Unauthorized Use of a Vehicle, a state jail felony, in Case No. 199-80961-00, in the 199th Judicial District Court of Collin County, Texas. Sanchez was ordered to serve three years community supervision.
11. On September 17, 2004, the District Attorney of Collin County, Texas, filed a motion to adjudicate guilt in Case No. 199-80961-00 after Sanchez violated the conditions of her community supervision. On August 13, 2007, the 199th Judicial District Court of Collin County, Texas, extended Sanchez's community supervision until July 19, 2008.
12. On June 19, 2007, Sanchez pled guilty to the offense of Failure to Identify, a class A misdemeanor, in Case No. CR-2004-06507-D, in the County Criminal Court No. 4 of Denton County, Texas. Sanchez was ordered to serve 15 months community supervision. On September 18, 2008, the County Criminal Court No. 4 of Denton County, Texas, extended Sanchez's community supervision until December 17, 2008. On January 5, 2009, Sanchez was discharged from community supervision.
13. On April 16, 2009, Sanchez was adjudicated guilty for the offense of Unauthorized Use of a Vehicle in Case No. 199-80961-00 and was ordered to serve 180 days confinement to run concurrently with case no. 1135089D described below.

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14. On May 29, 2009, Sanchez was placed on deferred adjudication for the offense of Securing Execution of a Document by Deception in the amount of \$1,500 or more, but less than \$20,000, a state jail felony, in Case No. 1135089D, in the 213th Judicial District Court of Tarrant County, Texas. Sanchez was ordered to serve three years community supervision. On May 22, 2013, Sanchez's deferred adjudication was terminated successfully and the charges were dismissed.

Evidence of Rehabilitation

15. Sanchez has cooperated extensively and timely with the department in its investigation of her criminal background. Sanchez provided evidence of her rehabilitation to support her ability and capacity for licensure.
16. 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).
17. 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.
18. Sanchez's conviction for Unauthorized Use of a Vehicle 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)(4)(F).
19. 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)(E) 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).
20. 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

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determining whether those factors outweigh the serious nature of the applicant's criminal history.

21. 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.
22. Considering the factors outlined in TEX. OCC. CODE ANN. § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1), Sanchez's conviction for Unauthorized Use of a Vehicle directly relates to the occupation of an 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 insurance-related products." 28 TEX. ADMIN. CODE §§ 1.502(a), 1.502(e)(1), and 1.502(e)(4)(F).

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23. 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 AFTER DETERMINING CONVICTION DIRECTLY RELATES TO OCCUPATION.

- (a) If a licensing authority determines under Section 53.022 that a criminal conviction directly relates to the duties and responsibilities of a licensed 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).
24. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), Sanchez has an Unauthorized Use of a Vehicle conviction which she attributes in part to being very young and immature. Sanchez has accepted responsibility and expressed remorse for her criminal conduct.
25. In consideration of TEX. OCC. CODE § 53.023(a)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(B), Sanchez's criminal activity occurred in 2001, 2007, and 2009 when she was 28 years old, 31 years old, and 36 years old, respectively.

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26. In consideration of TEX. OCC. CODE § 53.023(a)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(C), it has been over 12 years since Sanchez's last criminal activity occurred, and approximately 12 years since her last felony conviction directly related to the business of insurance.
27. In consideration of 28 TEX. ADMIN. CODE §§ 1.502(h)(2)(D) and 1.502(h)(2)(G)(i), Sanchez has provided the department with evidence demonstrating her commitment to rehabilitation while on community supervision and after community supervision. Sanchez provided the department with a detailed resume and explanation of her employment history. She has been steadily employed since her conviction. Sanchez has been working for an insurance agency as a call center representative since 2019. Prior to this, Sanchez worked for Amazon as a fulfillment associate.
28. In consideration of TEX. OCC. CODE § 53.023(a)(7) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(F), the department received letters of recommendation from Sanchez's colleagues, including her current supervisor at the insurance agency, who describe Sanchez as hard-working, reliable, and trustworthy.
29. In consideration of 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(ii), Sanchez has a child for whom she provides support.
30. In consideration of 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iii), Sanchez has maintained a record of good conduct without any criminal activity for nearly 12 years. Sanchez provided the department with documentation from the 213th District Court of Tarrant County, Texas, showing that she successfully completed her deferred adjudication and the proceedings were dismissed on May 22, 2013.
31. In consideration of 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iv), Sanchez has provided the department with evidence that she has paid all court fines and fees in full.
32. 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 Sanchez's convictions.
33. Due to Sanchez's criminal background, the department needs the opportunity to monitor her insurance activities to ensure she demonstrates the ability and capacity required to perform and discharge the responsibilities of a general lines agent.

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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, 4001.101, 4001.102, 4001.151, 4001.153, 4001.155, 4001.156, 4005.101, 4005.102, and 4054.051; TEX. GOV'T CODE §§ 2001.051-2001.178; TEX. OCC. CODE §§ 53.021-53.023; and 28 TEX. ADMIN. CODE § 1.502.
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. Sanchez 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.
4. Sanchez committed an act for which the department may deny or revoke 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 Sanchez's criminal convictions.
6. The commissioner is an insurance regulatory official authorized to regulate Sanchez's activities in the business of insurance. The commissioner has primary jurisdiction to grant Sanchez 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 Irma G. Sanchez. It is further ordered that the general lines agent license with a life, accident, and health qualification is suspended for two years, probated.

If, during the probation period imposed by this order, the department issues any additional licenses or authorizations to Sanchez, those additional licenses or authorizations will be suspended until the probation period imposed by this order has

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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, Sanchez must provide written notice of her criminal record to any employer, company, or other entity on behalf of which she performs the acts of an agent. Sanchez 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, Sanchez must file a written report, on or before the 15th day of the month on a quarterly basis for the months of May, August, November, and February, with the Texas Department of Insurance by emailing it to EnforcementReports@tdi.texas.gov. The reports must include the following information:

- a. Sanchez's current mailing address and telephone number;
- b. the name, mailing address, and telephone number of Sanchez's employer, and if Sanchez is self-employed, a statement that she is self-employed and the name, mailing address, and telephone number of her business;
- c. the name and address of any insurer or entity which has appointed Sanchez as an agent;
- d. the name and address of any insurer or entity which has terminated Sanchez's appointment as an agent; and
- e. a copy of any and all contracts Sanchez has entered into with an insurer, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.

Sanchez must notify the department immediately of the following by emailing EnforcementReports@tdi.texas.gov:

- a. any charges or indictments filed against her for a misdemeanor or felony during the period she is required to file reports, excluding traffic offenses and Class C misdemeanors;
- b. any state or regulatory actions taken against her including formal and informal actions;
- c. any change in her employment or her residence; and

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- d. any complaint made against Sanchez concerning her 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 Irma G. Sanchez 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 Sanchez maintains a license or authorization issued by the department. This written consent terminates immediately if any insurance license or authorization held by Sanchez is suspended or revoked.

Commissioner of Insurance

By:  _____
Doug Slape
Chief Deputy Commissioner
TEX. GOV'T CODE § 601.002
Commissioner's Order No. 2018-5528

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Cassie Tigue, Staff Attorney
Enforcement Division

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Affidavit

STATE OF Texas §
§
COUNTY OF Tarrant §

Before me, the undersigned authority, personally appeared Irma G. Sanchez
who being by me duly sworn, deposed as follows:

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

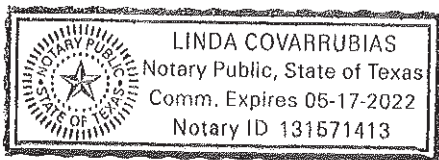
I waive rights provided by the Texas Insurance Code and other applicable law and acknowledge the jurisdiction of the commissioner.

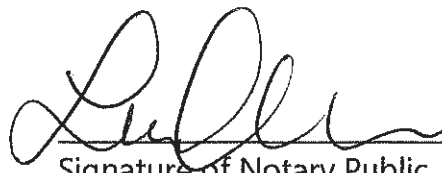
I have knowingly and voluntarily entered into the foregoing consent order and agrees with and consents to the issuance and service of the same by the commissioner of insurance of the state of Texas."


Affiant

SWORN TO AND SUBSCRIBED before me on April 20, 2021.

(NOTARY SEAL)




Signature of Notary Public
Linda Covarrubias
Printed Name of Notary Public