

No. 2023-8032

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

Date: 6/22/2023

Subject Considered:

Texas Department of Insurance v.
Sonya LaShawn Chapman

SOAH Docket No. 454-22-2154.C

General Remarks and Official Action Taken:

The subject of this order is Sonya LaShawn Chapman's application for a general lines agent license with life, accident, and health qualification. This order denies her application.

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. Chapman's application for a general lines agent license with life, accident, and health qualification. A copy of the proposal for decision is attached as Exhibit A. Neither party filed exceptions.

The commissioner of insurance adopts the administrative law judge's proposed findings of fact with changes to Finding of Fact No. 1 and proposed conclusions of law with changes to Conclusion of Law No. 12 as described in this order.

Legal Authority for Changes to Proposal for Decision

The legal authority for the changes to the proposal for decision made in this order is TEX. GOV'T. CODE § 2001.058(e)(1) and (3), which provide that "[a] state agency may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the agency determines . . . (1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies [of the agency], or prior administrative decisions; . . . or (3) that a technical error in a finding of fact should be changed."

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Finding of Fact No. 1

Proposed Finding of Fact No. 1 states:

Sonya LaShawn Chapman (Respondent) applied to the Texas Department of Insurance (Department) for general lines agent license with a life, accident, and health qualification (License) in February 2021.

Proposed Finding of Fact No. 1 contains a technical error in its statement that Ms. Chapman applied for "general lines agent license." The statement is missing the article "a" before the term "general lines agent license."

As adopted by this order, Finding of Fact No. 1 is changed to:

Sonya LaShawn Chapman (Respondent) applied to the Texas Department of Insurance (Department) for a general lines agent license with a life, accident, and health qualification (License) in February 2021.

Conclusion of Law No. 12

Proposed Conclusion of Law No. 12 states:

The Commission should deny issuance of Respondent's application for a license.

Conclusion of Law No. 12 contains an error in its statement of the applicable law by stating that "The Commission should deny issuance of" Ms. Chapman's license application. TDI is not a commission. TDI is a department, as that term is defined by Tex. Ins. Code § 31.001, which states that "'Department' means Texas Department of Insurance."

As adopted by this order, Conclusion of Law No. 12 is changed to:

The Department should deny issuance of Respondent's application for a license.

Findings of Fact

1. In place of Finding of Fact No. 1 as contained in Exhibit A, the following Finding of Fact No. 1 is adopted:

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Sonya LaShawn Chapman (Respondent) applied to the Texas Department of Insurance (Department) for a general lines agent license with a life, accident, and health qualification (License) in February 2021.

2. Findings of Fact Nos. 2–26 contained in Exhibit A are adopted by the commissioner and incorporated by reference into this order.

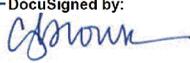
Conclusions of Law

1. Conclusions of Law Nos. 1–11 as contained in Exhibit A are adopted by the commissioner and incorporated by reference into this order.
2. In place of Conclusion of Law No. 12 as contained in Exhibit A, the following Conclusion of Law No. 12 is adopted:

The Department should deny issuance of Respondent’s application for a license.

Order

It is ordered that Sonya LaShawn Chapman's application for a general lines agent license with life, accident, and health qualification is denied.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:

5DAC5618BBC74D4... _____

Jessica Barta, General Counsel

DocuSigned by:

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Barbara Lazard-Hernandez, Attorney

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

—
**TEXAS DEPARTMENT OF INSURANCE,
PETITIONER**

V.

**SONYA LASHAWN CHAPMAN,
RESPONDENT**

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Insurance (Department) seeks to deny the application of Sonya LaShawn Chapman (Respondent) for a general lines agent license (License) based on her criminal history. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends the Department deny Respondent's application.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

There are no contested issues of jurisdiction or notice in this proceeding; therefore, those matters are addressed solely in the Findings of Fact and Conclusions of Law.

State Office of Administrative Hearings (SOAH) ALJ Brent McCabe convened a hearing on June 15, 2022. Attorney Sydney Moore represented Staff, and Respondent appeared and represented herself. The record closed on June 29, 2022.

II. APPLICABLE LAW

The Department considers it very important that license-holders be honest, trustworthy, and reliable,¹ and will evaluate an applicant's criminal history and other conduct to determine whether the applicant possess those qualities. The Department may deny a license to an applicant who has been convicted of a felony or an offense that directly relates to the duties and responsibilities of an insurance agent.²

To guide its decision-making when considering an applicant's criminal history, the Department has identified certain crimes it considers to be of such a serious nature that they are of prime importance in determining fitness for licensure; the identified crimes include manslaughter, violation of a protective

¹ 28 Tex. Admin. Code § 1.502(c).

² Tex. Ins. Code § 4005.101(b)(8); Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d).

order, and forgery offenses.³ The Department has determined that the crimes it considers to be of prime importance are also directly related to the occupations it licenses.⁴

In determining whether a criminal conviction directly relates to the duties and responsibilities of the licensed occupation, the licensing authority shall consider the following factors:

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;
4. the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation; and
5. any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.⁵

As additional factors for the Department to consider, Texas Occupations Code section 53.023(a) lists:

³ 28 Tex. Admin. Code § 1.502(e)(1), (4)(A), (4)(I).

⁴ 28 Tex. Admin. Code § 1.502(e); *see also* Tex. Occ. Code § 53.025.

⁵ Tex. Occ. Code § 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;
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.⁶

An applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the letters of recommendation.⁷ Additionally, an applicant may furnish proof to the Department that she has: (1) maintained a record of steady employment; (2) supported her 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.⁸

⁶ Tex. Occ. Code § 53.023(a); *see also* 28 Tex. Admin. Code § 1.502(h)(2). In addition to these factors, the Department rule specifically references letters of recommendation from (i) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person; (ii) the sheriff or chief of police in the community where the person resides; and (iii) any other person in contact with the convicted person. 28 Tex. Admin. Code § 1.502(h)(2)(F)(i)-(iii).

⁷ Tex. Occ. Code § 53.023(b).

⁸ 28 Tex. Admin. Code § 1.502(h)(2)(G).

The Department will not issue a license unless, when viewed in the light of the occupation being licensed, the mitigating factors specified in Texas Occupations Code section 53.022 and 53.023 outweigh the serious nature of the criminal offense when viewed in light of the occupation being licensed.⁹ Staff bears the burden of proving its grounds for denying Respondent’s license application, but Respondent has the burden to prove her fitness to be licensed despite her criminal history.¹⁰ The burden of proof is by a preponderance of the evidence.¹¹

III. EVIDENCE

At the hearing, Staff offered one exhibit, which was admitted, and the testimony of Lewis Wright, an administrative review liaison at the Department. Respondent offered eight exhibits, which were admitted, and her own testimony.

A. STAFF’S EVIDENCE

1. Respondent’s Application

In February 2021, Respondent applied for a general lines agent license with a life, accident, and health qualification.¹² According to Mr. Wright, the duties of this particular licensee would be to represent insurance carriers in the market and offer insurance products to the general public.

⁹ 28 Tex. Admin. Code § 1.502(g)-(h).

¹⁰ 1 Tex. Admin. Code § 155.427.

¹¹ See *Granek v. Tex. State Bd. of Med. Exam’rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.) (concluding that preponderance of the evidence standard is appropriate for agency proceedings, which are civil in nature).

¹² Staff Ex. 1 at TDI 009-10.

2. Convictions

Mr. Wright testified that the Department proposed denial of Respondent’s application because of her criminal history,¹³ which is summarized as follows:

Cause No. and Court	Date of Incident (Age)	Summary of the offense
F88-86056-VT, in the 283rd District Court, Dallas County	8/5/1988 (20 years old)	On November 10, 1989, Respondent was adjudicated guilty of voluntary manslaughter following a finding that Respondent violated the terms of her deferred adjudication probation, including admitting to using and testing positive for cocaine. Respondent pleaded guilty for voluntary manslaughter, a second-degree felony, of an individual by shooting him with a firearm. Respondent was sentenced to eight-years confinement in prison beginning November 1989. ¹⁴
MA94-56094, in the Criminal Court #3 of Dallas County	7/22/1994 (26 years old)	On September 14, 1994, Respondent pleaded nolo contendere and convicted of knowingly or intentionally violating a protective order, a class A misdemeanor. Respondent was sentenced to 30-days confinement in Dallas County Jail. ¹⁵

¹³ Staff Ex. 1 at TDI 002.

¹⁴ Staff Ex. 1 at TDI 0022-28.

¹⁵ Staff Ex. 1 at TDI 037.

Cause No. and Court	Date of Incident (Age)	Summary of the offense
MA94-55790, in the Criminal Court #4 of Dallas County	7/19/1994 (26 years old)	On September 15, 1994, Respondent pleaded nolo contendere and convicted of knowingly or intentionally violating a protective order, a class A misdemeanor. Respondent was sentenced to 45-days confinement in Dallas County Jail. ¹⁶
F-0724050-W, in the 363rd District Court, Dallas County	5/8/2007 (39 years old)	On November 1, 2007, pleaded guilty and was convicted of forgery, a state jail felony. The affidavit of arrest alleged that Respondent and another suspect attempted to pass off forged traveler’s checks at a Wal-Mart. Previously, the other suspect and a different woman had attempted to use the checks but were denied by the cashier. In a judicial confession, Respondent confessed that she “intentionally and knowingly with intent to defraud and harm another, pass[ed] to [the cashier] a forged writing knowing such writing to be forged.” Respondent was sentenced to 60 days confinement in the county jail. ¹⁷

Mr. Wright testified that these convictions are of prime importance in determining fitness for licensure as enumerated in the Department rules. As for the manslaughter conviction, Mr. Wright stated that all violent assaults are considered important, and it does not get any more severe than taking someone’s life. Additionally, the Department finds the probation violation of note as it speaks to

¹⁶ Staff Ex. 1 at TDI 039.

¹⁷ Staff Ex. 1 at TDI 045-49. Respondent was convicted of a state jail felony but granted the sentence of a class A misdemeanor on motion by the assistant district attorney.

Respondent's ability to comply with a court order and, by extension, the rules and regulations that govern insurance agents. Similarly, Mr. Wright found the protective order violations concerning because they also involve a failure to follow a court order. Finally, the forgery conviction was of particular concern to Mr. Wright because it is a common crime that arises in the insurance industry, and there is additionally opportunity to commit forgery or a similar type of crime if a License is granted.

3. Mitigating or Rehabilitative Factors

Mr. Wright testified that he reviewed both the documentation submitted to the Department by Respondent and Respondent's admitted exhibits. He acknowledged that Respondent had demonstrated some rehabilitative effort, but it did not, in his opinion, outweigh the nature and severity of the criminal history.

Respondent provided to the Department three letters of recommendation.¹⁸ Mr. Wright stated that the Department considered them. He noted that the letters speak highly of her politeness, work ethic, and kindness, but they do not speak about Respondent's honesty and trustworthiness or acknowledge her criminal history. He noted that two of the letters used similar, almost identical, language. As for her work history, Mr. Wright acknowledged that Respondent has been industrious and maintained a steady record of employment outside a six-year gap

¹⁸ Staff Ex. 1 at TDI 017, 19-20. The three letters are: (1) a letter, dated March 30, 2021, from Sandra Jones, a 23-year friend; (2) a letter, dated April 4, 2021, from LaShonda Rogers, a person who has known Respondent for 2 years; and (3) a letter, dated April 4, 2021, from Hurley Jones, Jr., a mortgage banking officer who has known Respondent for 20 plus years.

following the first conviction. However, Mr. Wright found Respondent did not handle money in most of her jobs.

Respondent also submitted a personal statement to the Department.¹⁹ In the statement, she acknowledged the manslaughter and forgery convictions.²⁰ She writes that she made mistakes and surrounded herself with the wrong people but has since corrected her errors and is more responsible.²¹ She stated that the manslaughter conviction was the result of an altercation by a person who attacked her and demanded money.²² According to Respondent's statement, the forgery conviction was the result of her neighbor asking her to purchase some items from Wal-Mart because the neighbor did not have proper identification.²³ Respondent states that she was unaware that the check was forged and did not belong to the neighbor.²⁴ She was under the impression that she was not doing anything wrong.²⁵ Mr. Wright testified that he had concerns with Respondent's personal statement because it appeared that Respondent was not fully acknowledging her wrongdoing and she did not address the violation of a protective order convictions.

¹⁹ Staff Ex. 1 at TDI 055.

²⁰ Staff Ex. 1 at TDI 055.

²¹ Staff Ex. 1 at TDI 055.

²² Staff Ex. 1 at TDI 055.

²³ Staff Ex. 1 at TDI 055.

²⁴ Staff Ex. 1 at TDI 055.

²⁵ Staff Ex. 1 at TDI 055.

B. RESPONDENT'S EVIDENCE

1. Background

Respondent testified that she has overcome many difficulties in her life. Her mother and father were not present when she was a child. She experienced unstable living arrangements.²⁶ Respondent stated that a lot of her troubles stemmed from her addiction to drugs, but she overcame her addiction in 2007, and Respondent testified that she has been drug free since then.²⁷

Respondent expressed that, with her criminal history, she continues to struggle with employment. She feels that her history—along with her drug addiction—prevented her from working, being a mother, and lots of other things. Getting back on track has been hard, but, despite being clean from drugs since 2007, Respondent testified that it continues to be difficult to overcome her record and find a career with her criminal history.²⁸

She is asking for a chance to establish a career for herself and the possibility to move beyond working for somebody and, instead, work for herself. She testified that she has no problem with obeying the law and would not violate any provisions

²⁶ See Resp. Ex. 5 at 2-3 (detailing the dates in which Respondent stayed at a homeless shelter from April 2016 to May 2017).

²⁷ See Resp. Ex. 2 at 2-4.

²⁸ See Resp. Ex. 6 at 2 (a May 2019 letter from Bank of New York Mellon Corporation to Respondent that it was considering her application and that it had received consumer investigative report subject to the requirements of the Federal Credit Reporting Act); see also Resp. Ex. 7 at 2-3. In her June 12, 2022, statement to SOAH, Petitioner states she has served her sentence for her crime and continues to be denied housing, employment, and the right to pursue happiness. Resp. Ex. 7 at 2.

of her licensure. She continues to push through agencies, companies, and organizations that turn her down because of her past, feeling that the denials have been an excuse to say “no” to her without reviewing the particulars of her situation.

2. Convictions

As for her convictions, Respondent testified that she takes full responsibility, but she cannot change her record.

For the voluntary manslaughter, she testified that she was young. She was attacked and used a firearm, thinking that she was defending herself. However, at the time, she was experimenting with drugs, and it played a part in her actions and her case.

As for the protective order violations, Respondent testified that the convictions occurred while she was incarcerated. It related to a dispute between Respondent and the father of Respondent’s child about visitation rights. Respondent testified that she was going to the father’s work to ask about her visitation rights because the father had custody. As a result, the father sought a protective order, which she was later convicted of violating. She testified that she took the lack of access to her only child hard. In the end, the charges were pending while she was incarcerated so she just wanted to take care of it while she was incarcerated.

As for the forgery incident, Respondent testified that she was not aware that the cashier's check was stolen, and she did not know that a cashier's check could be made out in someone's name, but instead thought they were purchased with cash and used in the place of cash. She testified that she questioned whether the check was manufactured but not whether it was stolen. She asked her neighbor if she could get in trouble and the neighbor told her "No." Her understanding at the time was that she was cashing a check for a neighbor who did not have a proper identification to cash the checks. She stated that she learned her lesson and not be involved with anyone else when it comes to a check.

3. Mitigating or Rehabilitative Factors

Respondent testified that she made it through prison, and she has overcome her addiction to drugs. She has always tried to better her life through education and training, including obtaining a Bachelor of Science from Texas Women's University in May 2014.²⁹ In February 2021, Respondent passed the required exam for General Lines – Life, Accident, and Health.³⁰

²⁹ Staff Ex. 1 at TDI 054; *see also* Resp. Ex. 1 at 2-12. Additionally, Respondent's Exhibit 1 presents certificates of completion for the following: (1) GED, dated August 1987; (2) Basic Office Automation Technology, dated June 1996; (3) Database Management Occupational Technology, dated June 1996; (4) Medical Record Coding dated November 2002; (5) Computer Operating System, dated December 2005; (6) Certified Emergency Telecommunicator, dated January 2012; (7) Associate of Applied Science for paralegal/legal assistant studies, dated August 2011; (8) membership in the National Technical Honor Society, dated April 2012; and (9) Electrocardiography Technician, dated July 2017. Resp. Ex. 1 at 2-12.

³⁰ Resp. Ex. 1 at 13.

She is currently working as a personal phone banker for a company, NCI.³¹ In her job, she has access to caller's personal information and has never attempted to invade someone's privacy by stealing that information from them.

A letter from the Legal Aid of North West Texas, in August 2012, detailed that Respondent had volunteered as an intake screener at its evening legal aid intake clinics.³² The letter describes Respondent's performance as excellent and above-standard.³³ It also describes her pleasant personality and ability to conduct herself professionally while able to help the low-income applicants feel at ease.³⁴ Similarly, the letters of recommendation that Respondent provided to the Department describe Respondent as a hard worker, who is polite and professional.³⁵ Respondent also provided a certificate of appreciation from 1994 from the City of Dallas for her contribution to the success of the customer service/customer satisfaction conferences held for mid-manager, support staff and supervisory personnel.³⁶

Respondent feels that she has proven herself in recent years and is now buying a home; she makes donations to her church and other charities. She considered her education, overcoming her addiction, and refusing to make her life a life of crime to be a success.

³¹ See also Staff Ex. 1 at TDI 054. Respondent's CV indicates that Respondent has held several jobs since her graduation from college in 2014 and has been regularly employed during that period. Staff Ex. 1 at TDI 054.

³² Resp. Ex. 3 at 2.

³³ Resp. Ex. 3 at 2.

³⁴ Resp. Ex. 3 at 2.

³⁵ Staff Ex. 1 at TDI 017, 19-20.

³⁶ Resp. Ex. 3 at 3.

IV. ANALYSIS

Staff contends Respondent should be denied a License pursuant to Texas Insurance Code section 4005.101(b)(8) and Texas Occupations Code section 53.021(a) because of Respondent's four criminal convictions.³⁷ Respondent acknowledges her criminal history but argues that the mitigating factors and her rehabilitative efforts outweigh her criminal history.

For Staff to meet its burden, Staff must demonstrate by a preponderance of the evidence that (1) Respondent was convicted of an offense; and (2) the crime was a felony or directly related to the duties and responsibilities of the licensed occupation.³⁸ After which, the factors in Texas Occupations Code sections 53.022 and 53.023 and 28 Texas Administrative Code section 1.502(h) must be considered to determine whether the Department should take an action to deny the application.

A. CONVICTIONS AND RELATIONSHIP TO THE LICENSE

The evidence demonstrates that Respondent was convicted of four offenses: (1) voluntary manslaughter, a second-degree felony, in 1989; (2) violation of a protective order, a class A misdemeanor, in 1994; (3) another violation of a protective order, a class A misdemeanor, in 1994; and (4) forgery, a state jail

³⁷ Staff argued that Respondent has not obtained the written consent of the Commissioner of Insurance following her conviction of a felony involving dishonesty as contemplated by 18 United States Code section 1033. At the hearing, Staff acknowledged that the process to request written consent is independent from the license application and is not a prerequisite to receiving a license. Therefore, the ALJ declines to address this issue or rely on it in determining whether Respondent's application should be denied.

³⁸ Tex. Occ. Code § 53.021(a)(1); Tex. Ins. Code § 4005.101(b)(8); 28 Tex. Admin. Code § 1.502(d).

felony.³⁹ Therefore, Staff has met its burden to demonstrate the criminal convictions.

The evidence establishes that each of the convictions are either a felony, directly related to the duties and responsibilities of the licensed occupation, or both. In its rules, and pursuant to Texas Occupations Code section 53.025, the Department has identified each of the convicted offenses to be of such serious nature that they are of prime importance in determining fitness for licensure.

For voluntary manslaughter, the crime is a felony, as contemplated in Texas Insurance Code section 4005.101(b)(8). Additionally, the Department has found it to be directly related to the duties and responsibilities of the license occupation.⁴⁰ Manslaughter is a serious, violent crime that requires reckless action on the part of the offender. The circumstances surrounding this particular offense strengthens the relationship between the licensed occupation and the crime. The crime was characterized as a dispute between Respondent and the other person over a demand for money—a concern for the Department. Also, in this matter, Respondent originally received deferred adjudication probation, which was revoked when Respondent failed to comply with the terms of her probation. Given the highly regulated nature of the industry, the Department considers the willingness or ability of a licensed agent to comply with the rules and regulations to be important duty for a licensed agent.

³⁹ See Staff Ex. 1 at TDI 0022-28, 37, 39, 45-49.

⁴⁰ 28 Tex. Admin. Code § 1.502(e)(4)(A).

For the violations of the protective order, the Department has also found this type of violation to be directly related to the duties and responsibilities of the license occupation.⁴¹ Like the revocation of Respondent’s probation, the failure of Respondent to comply with court orders is relevant to Respondent’s ability to comply with the requirements and regulations of a general lines insurance agent and is a serious crime. While a license may not offer further opportunities to engage in a similar type of crime, its element of violating a court order correlates with the responsibilities of an insurance agent to comply with all rules and regulations governing the sale of insurance products. The convictions for violating a protective directly relate to the duties and responsibilities of an insurance agent.

Finally, for the forgery conviction, it is both a felony and directly related. Like the previous convictions, the Department identifies a crime for which fraud, dishonesty, or deceit is an essential element—which includes forgery—as a crime of prime importance in determining fitness. This is reinforced by Mr. Wright’s testimony that a license grants greater opportunity to engage in fraudulent behavior or crimes of a similar type. The insurance industry is complicated for the general public and, therefore, trust in an agent is an important element to the license. Forgery is a serious crime with an essential element of intending to defraud.

B. REHABILITATIVE EFFORTS

In consideration of the factors of Texas Occupations Code sections 53.022 and 53.023(a) and 28 Texas Administrative Code section 1.502(h), Respondent has

⁴¹ 28 Tex. Admin. Code § 1.502(e)(4)(I).

made significant rehabilitative efforts since her last conviction nearly 15 years ago. In 2007, she rehabilitated and overcame her drug addiction, and there is no evidence of a relapse since that time. Outside of the revocation of her deferred adjudication in 1989, there is no evidence that Respondent failed to comply with the terms of her conviction including community supervision, parole, or mandatory supervision. Respondent provided multiple letters of recommendation or commendation regarding her personality and work ethic.⁴² While the three letters of recommendation provided to the Department are similar in many regards, they are corroborated by the 2012 letter from Legal Aid of North West Texas. By all accounts, Respondent is a professional, polite, hard worker. However, none of the letters discuss Respondent's trustworthiness or acknowledge Respondent's criminal history.

Since her last conviction, Respondent has demonstrated a record of steady employment and education. She obtained her bachelor's degree and an associate degree for paralegal or legal assistant work. She was certified as an emergency telecommunicator. She trained to be an electrocardiography technician. Prior to her last conviction, Respondent received computer training in the 1990s and training in medical record coding in 2002. As detailed in her CV, Respondent has

⁴² There are no letters of recommendations from prosecutors, law enforcement, correctional officers, the sheriff, or chief of police. *See* 28 Tex. Admin. Code § 1.502(h)(2)(F). While the ALJ considers the factors delineated in the Department rule, the ALJ does not give much weight to the absence of the letters from these actors. These factors were previously found in Texas Occupations Code section 53.023(a) but repealed by the Legislature in 2019, along with the requirements to furnish proof that the application has maintained a record of steady employment, supported the Respondent's dependents, maintained a record of good conduct, and paid all outstanding court costs. Act of Sept. 1, 2019, 86th Leg., R.S., ch. 765, §§ 8, 12, sec. 53.023(a), (c), 2019 Tex. Sess. Law Serv. Ch. 765 (H.B. 1342). Department rule has not been amended since that Act by the Legislature, and Staff, at the hearing, indicated that the purpose of the rule was effectuate the intent of Chapter 53 of the Texas Occupations Code.

maintained employment since her graduation including experience in customer service positions.

In the 15 years since her last conviction, the evidence demonstrates that Respondent has significantly rehabilitated herself and taken efforts to better herself.

C. RECOMMENDATION

Notwithstanding Respondent's rehabilitative efforts, the ALJ finds that the Department should deny Respondent's application because of the forgery conviction and its relationship to the License. As noted, financial crimes and crimes of fraud are prevalent and concerning crimes to the Department. The Department's concern is justified as there lies a potential for an agent to take advantage of their superior knowledge and position of trust to the public who may not understand the complexities of the insurance industry. While Respondent has shown significant rehabilitative efforts since her conviction in 2007, the ALJ finds that it does not outweigh the factors supporting denial. At the time of her conviction, Respondent confessed that she knew the checks were forged and that she presented them to the cashier with the intent to defraud. On the other hand, in this proceeding Respondent testified that she did not understand that they were stolen and did not understand traveler's checks, she stated that she questioned whether they were manufactured and asked her neighbor if they would get in trouble. The ALJ shares Staff's concerns that it appears that Respondent is downplaying her role in the offense and has not fully acknowledged her wrongdoing. Additionally, at the time of this incident, Respondent was 39 years

old, and it cannot be said to be the result of youthful indiscretion. After consideration of the factors found in Texas Occupations Code sections 53.022 and 53.023(a) and 28 Texas Administrative Code section 1.502(h), the ALJ finds that the Department should deny Respondent's application for a license based on her forgery conviction.

With regards to the manslaughter and protective order violation convictions, the ALJ finds that the evidence does not weigh in favor of denying Respondent's application. First, the convictions were 34 years ago for the manslaughter conviction, and 28 years ago for the protective order violations. Respondent was 20 years old at the time of the manslaughter and 26 years old at the time of the protective order violations. Since that time, Respondent has shown significant growth and rehabilitation with no further convictions for violent crimes. While there is a relationship between the ability to comply with court orders and the ability to comply with insurance rules and regulations, there is little added opportunity for Respondent to commit a similar type of crime if granted a License. When applying the appropriate factors to the manslaughter and protective order violation convictions, the ALJ finds that the evidence supports taking no action to deny the application on these grounds.

While the evidence does not support denying the application on all the grounds urged by Staff, it does support denial based on Respondent's 2007 forgery conviction. Therefore, the ALJ recommends that the Department deny Respondent's application in this matter.

V. FINDINGS OF FACT

1. Sonya LaShawn Chapman (Respondent) applied to the Texas Department of Insurance (Department) for general lines agent license with a life, accident, and health qualification (License) in February 2021.
2. In April 2021, the Department proposed to deny Respondent's application because of her criminal history.
3. Respondent requested a hearing to challenge the denial.
4. In November 1989, Respondent was adjudicated guilty of voluntary manslaughter, a second-degree felony, in Cause No. F88-86056-VT, in the 283rd District Court, Dallas County, Texas. Respondent was sentenced to eight years in prison.
5. Respondent was adjudicated guilty following a revocation of her deferred adjudication probation after she failed to comply with the terms of the probation, including admitting to and testing positive for the use of cocaine.
6. The manslaughter conviction was the result of altercation between Respondent and a man over money in which a firearm was discharged resulting in the man's death.
7. Respondent was 20 years old at the time of the manslaughter incident.
8. In September 1994, Respondent pleaded guilty and was twice convicted of the crime of violating a protective order, a class A misdemeanor, in Cause No. MA94-56094, in the Criminal Court #3 of Dallas County, Texas and Cause No. MA94-55790, in the Criminal Court #4 of Dallas County, Texas. Respondent was sentenced 30 days and 45 days, respectively, confinement in the Dallas County Jail.
9. The violations of the protective order were the result of Respondent's dispute with the father of her child, after a protective order was in place, over her access to her child.
10. Respondent was 26 years old at the time of the protective order violations.

11. In November 2007, Respondent pleaded guilty and was convicted of forgery, a state jail felony in Cause No. F-0724050-W, in the 363rd District Court, Dallas County, Texas. Respondent was sentenced to 60 days confinement in the county jail.
12. The forgery conviction was the result of Respondent's attempt to pass off forged or nonauthorized traveler's checks to a cashier at Wal-Mart. Respondent confessed that she intentionally and knowingly with intent to defraud and harm another, passed to the cashier a forged writing knowing such writing to be forged.
13. In this proceeding, Respondent downplayed her culpability for the forgery, claiming that she did not understand that the checks were stolen and did not understand traveler's checks.
14. Respondent was 39 years old at the time of the act of forgery.
15. Respondent's criminal offenses are serious.
16. Respondent's crimes directly relate to the duties and responsibilities of a general lines insurance agent.
17. Outside these four convictions, Respondent has no other criminal history.
18. Letter of recommendation or commendation describe Respondent as a professional, polite hard worker.
19. Other than the revocation of her deferred adjudication probation, Respondent has completed all the requirements of her sentences including any conditions of community supervision, parole, or mandatory supervision.
20. In 2007, Respondent rehabilitated her drug addiction, and there is no evidence of drug use or relapse since that time.
21. Since her last conviction, Respondent has maintained steady employment.
22. It has been nearly 15 years since Respondent's last conviction.
23. Respondent has pursued opportunities for education, training, and certifications including a bachelor's degree, an associate degree, and

certification as emergency telecommunicator and electrocardiography technician.

24. For an insurance agent, there are greater opportunities to engage in crimes of fraud or financial crimes.
25. On March 22, 2022, the Department's staff (Staff) mailed the Notice of Hearing to Respondent. The notice 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 incorporated by reference the factual matters asserted in the complaint or petition.
26. The hearing on the merits was convened by telephone on June 15, 2022, before Administrative Law Judge Brent McCabe with the State Office of Administrative Hearings (SOAH) in Austin, Texas. Attorney Sydney Moore represented Staff, and Respondent represented herself. The record closed on June 29, 2022, with the filing of the transcript and admitted exhibits.

VI. 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. Respondent received proper and timely notice of the hearing. Tex. Gov't Code §§ 2001.051-.052.
4. Staff had the burden of proving its grounds for denying Respondent a License, while Respondent had the burden to prove that she is fit to be licensed notwithstanding her criminal history. Tex. Occ. Code §§ 53.021-.023; 1 Tex. Admin. Code § 155.427; 28 Tex. Admin. Code § 1.502(g)-(h). The burden of proof is by a preponderance of the

evidence. *Granek v. Tex. State Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

5. The Department has determined that certain crimes are of such a serious nature that they are of prime importance in determining fitness for licensure. These crimes include manslaughter, forgery, and violation of a protective order. 28 Tex. Admin. Code § 1.502(e)(1), (4)(A), (4)(I).
6. The Department may deny Respondent's application because she had been convicted of a felony. Tex. Ins. Code § 4005.101(b)(8); 28 Tex. Admin. Code § 1.502(d).
7. The Department may deny Respondent's application because she has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation. Tex. Occ. Code § 53.021(a)(1).
8. The Department will consider the factors listed in Texas Occupations Code sections 53.022 and 53.023 in determining whether to issue a license to an applicant despite a criminal offense or fraudulent or dishonest conduct and will not issue a license unless those mitigating factors outweigh the serious nature of the criminal offense or fraudulent or dishonest conduct when viewed in the light of the occupation being licensed. 28 Tex. Admin. Code § 1.502(g), (h).
9. The mitigating factors do outweigh the seriousness of Respondent's criminal offenses for manslaughter and violation of a protective order. Tex. Occ. Code §§ 53.022-.023; 28 Texas Administrative Code § 1.502(g), (h).
10. The mitigating factors do not outweigh the seriousness of Respondent's criminal offense for forgery. Tex. Occ. Code §§ 53.022-.023; 28 Texas Administrative Code § 1.502(g)-(h).
11. Respondent is not currently fit to hold a License. Tex. Occ. Code §§ 53.022-.023; 28 Texas Administrative Code § 1.502(g), (h).

12. The Commission should deny issuance of Respondent's application for a license.

SIGNED AUGUST 19, 2022

A handwritten signature in black ink, appearing to read "B McCabe", written over a horizontal line.

Brent McCabe,
Presiding Administrative Law Judge