

No. **2024-8516**

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

Date: 2/6/2024

Subject Considered:

Texas Department of Insurance
v.

Eric Daniel Webb

SOAH Docket No. 454-23-11270.C

General Remarks and Official Action Taken:

The subject of this order is Eric Daniel Webb's application for a Texas designated home state adjuster license. This order approves Mr. Webb's application, subject to Mr. Webb providing to the Texas Department of Insurance (TDI) written consent to participate in the business of insurance issued by the chief insurance regulatory official of Missouri pursuant to 18 United States Code § 1033.

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 Mr. Webb's application for a Texas designated home state adjuster license be granted, provided he is able to acquire the required consent under 18 United States Code § 1033. A copy of the proposal for decision is attached as Exhibit A.

Findings of Fact

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

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Conclusions of Law

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

Order

It is ordered that Eric Daniel Webb's application for a Texas designated home state adjuster license is approved, subject to Mr. Webb providing to TDI written consent to participate in the business of insurance issued by the chief insurance regulatory official of Missouri pursuant to 18 United States Code § 1033.

DocuSigned by:

FC5D7EDDFB4F8... _____
Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:

5DAC5618BBC74D4... _____
Jessica Barta, General Counsel

DocuSigned by:

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Justin Beam, Chief Clerk

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

—
**TEXAS DEPARTMENT OF INSURANCE,
PETITIONER**

v.

**ERIC DANIEL WEBB,
RESPONDENT**

PROPOSAL FOR DECISION

The Texas Department of Insurance (Department) seeks to deny the application of Eric Daniel Webb (Respondent) for a Texas designated home state adjuster license based on his criminal history. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends the Department grant Respondent's license application.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

On June 3, 2021, Respondent filed an application for a Texas designated home state adjuster license with the Department. On October 15, 2021, the Department proposed to deny the application based on Respondent’s criminal history. Respondent timely appealed the proposed denial, and, on January 31, 2023, this matter was referred to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.

Notice and jurisdiction were not disputed and are addressed in the Findings of Fact and Conclusions of Law below. The hearing in this case was held by videoconference on August 22, 2023, before SOAH ALJ Michelle Kallas. The Department was represented by staff attorneys Nancy Williams and Erik Huhn. Respondent represented himself at the hearing. The hearing concluded the same day. The record closed on September 13, 2023, with the filing of the admitted exhibits and the hearing transcript.

II. APPLICABLE LAW

To act as an adjuster in this state, a person must hold a license issued by the Department. The Department may deny a license application if the applicant has engaged in fraudulent or dishonest acts, has been convicted of a felony, or has been convicted of a crime directly related to the duties and responsibilities of the licensed occupation.¹ For applicants with criminal convictions, the Department

¹ Tex. Ins. Code § 4005.101(b)(5), (8); Tex. Occ. Code § 53.021(a)(1).

considers the factors specified in Texas Occupations Code (Code) sections 53.022 and .023 in determining whether to grant a license to the applicant.²

Code section 53.022 sets forth the following factors addressing whether a criminal conviction directly relates to the duties and responsibilities of the licensed occupation:

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.³

The Department shall not issue a license if an applicant has committed a felony or engaged in fraudulent or dishonest acts, unless the Department finds that the mitigating factors outweigh the serious nature of the criminal offense when

² 28 Tex. Admin. Code § 1.502(h). Section 1.502 was amended by the Department effective September 2023. This Proposal for Decision cites to the prior version of this rule in effect during the applicable part of this case.

³ See also 28 Tex. Admin. Code § 1.502(h)(1) (referring to the version of Code section 53.022, prior to its amendment in 2019).

viewed in light of the occupation being licensed.⁴ In determining the fitness of a person who has been convicted of a crime to perform the duties and responsibilities of the licensed occupation, the Department must consider the following mitigating factors set out in Code section 53.023:

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 prior to and following the criminal activity;
5. evidence of the person’s rehabilitation or rehabilitative effort while incarcerated or following 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 present fitness, including letters of recommendation.⁵

In accordance with the requirements of Code section 53.025, the Department has developed guidelines relating to what it will consider in determining whether to grant a license if the applicant has been convicted of a crime.⁶ The crimes the Department considers to be of such a serious nature that

⁴ 28 Tex. Admin Code § 1.502(f).

⁵ See also 28 Tex. Admin. Code § 1.502(h)(2) (referring to the version of Code section 53.023, prior to its amendment in 2019).

⁶ 28 Tex. Admin. Code § 1.502(e).

they are of prime importance in determining fitness for licensure include any offense with the essential elements of fraud, dishonesty, or deceit; theft; a criminal homicide offense; and the manufacture, delivery or possession with intent to manufacture or deliver a controlled substance or dangerous drug.⁷

The applicant is responsible, to the extent possible, for obtaining and providing the Department with the evidence of fitness discussed above.⁸ Additionally, the applicant must furnish proof to the Department that the applicant has: (1) maintained a record of steady employment; (2) supported the applicant's dependents, where applicable; (3) otherwise maintained a record of good conduct; and (4) paid all outstanding court costs, supervision fees, fines, and restitution orders in any criminal case in which the applicant has been convicted.⁹

Staff has the burden of producing evidence to show that Respondent's application should be denied because he has a criminal history that supports denial of the license.¹⁰ Once Staff produces such evidence, the burden shifts to Respondent to show that he is fit for a license despite his criminal history.¹¹

⁷ 28 Tex. Admin. Code § 1.502(e)(1), (4)(A), (F)-(G).

⁸ Tex. Occ. Code § 53.023(b); 28 Tex. Admin Code § 1.502(h)(3).

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

¹⁰ 1 Tex. Admin. Code § 155.427.

¹¹ Tex. Occ. Code § 53.023(b); 28 Tex. Admin. Code § 1.502(h)(3).

III. EVIDENCE

Staff offered one exhibit, which was admitted and included Respondent's application, information the Department obtained regarding Respondent's criminal convictions, and letters of recommendation. Staff also presented testimony from Lewis Wright, an Administrative Review Liaison for the Department. Respondent testified on his own behalf. Respondent did not offer any documents or testimony from other witnesses during the hearing.

A. RESPONDENT'S CRIMINAL HISTORY

Respondent committed multiple criminal felony offenses when he was between twenty and thirty-three years old. Respondent served all his sentences and completed all conditions of parole. The following is a summary of Respondent's relevant criminal history:

- On March 4, 1997, in Cause No. CR193-2134-FX-J1, in the 23rd Judicial Circuit Court of Jefferson County, Missouri, Respondent pled guilty to felony stealing for events occurring on October 3, 1993.¹² Respondent was sentenced to five years' supervised probation. Respondent's probation was revoked. Respondent completed drug treatment while at Farmington Correctional Center and subsequently had his probation reinstated.
- On January 5, 1998, in Cause No. 2197R-00024-01, in the 21st Judicial Circuit Court of St. Louis County, Missouri, Respondent pled guilty to the offense of felony possession of burglary tools and misdemeanor trespass for events occurring on January 1, 1997. Respondent's sentences were suspended, and he was placed on

¹² TDI Ex. 1 at 6, 12, 74.

probation for three years for the felony conviction and two years for the misdemeanor conviction. On March 27, 1998, Respondent's probation was revoked for both offenses. He was sentenced to two years' incarceration for the felony and six months' incarceration for the misdemeanor, both to be served concurrently with Respondent's prior conviction in Cause No. CR193-2134-FX-J1. Respondent was ordered to pay a \$46.00 fine.¹³

- On September 10, 2001, in Cause No. 01CR324693, in the 19th Judicial Circuit Court of Cole County, Missouri, Respondent pled guilty to felony failure to return to incarceration while under a work-release program for events occurring on December 22, 2000. Respondent was sentenced to five years' incarceration to be served concurrently with any other terms being served. Respondent was ordered to pay a \$46.00 fine.¹⁴
- On October 1, 2001, in Cause No. 2199R-04506-01, in the 21st Judicial Circuit Court of St. Louis County, Missouri, Respondent pled guilty to two counts of felony possession of ephedrine with intent to manufacture methamphetamine for events occurring on September 30, 1999, and October 9, 1999. Respondent was sentenced to seven years' incarceration for each count to be served concurrently with Respondent's prior convictions in Cause Nos. CR193-2134-FX-J1 and 01CR324693. Respondent was ordered to pay a \$46.00 fine.¹⁵
- On June 10, 2008, in Cause No. 07AB-CR00216, in the 20th Judicial Circuit Court of Franklin County, Missouri, Respondent pled guilty to felony involuntary manslaughter involving intoxication and felony armed criminal action for events occurring on April 21, 2007. Respondent was sentenced to 12

¹³ TDI Ex. 1 at 47-62.

¹⁴ TDI Ex. 1 at 4-11.

¹⁵ TDI Ex. 1 at 63-79.

years' incarceration for each charge to be served concurrently with any other terms being served. Respondent was ordered to pay a \$68.00 fine.¹⁶

- In October 2017, Respondent was released from confinement on parole. Respondent completed all parole requirements and was released from parole on July 9, 2019.¹⁷

B. LEWIS WRIGHT TESTIMONY

Mr. Wright has worked for the Department for sixteen years. He reviews license applications submitted to the Department that contain concerning responses to questions for the initial application processor. One such concern would be an identified criminal history for the applicant. According to Mr. Lewis, not all applications are denied based on an applicant's criminal history. He testified that the core mission is to protect Texas consumers from harm.

Mr. Wright testified that Respondent applied for a Texas designated home state adjuster license. Mr. Lewis explained that this type of license is used when the applicant is the resident of another state, in Respondent's case, Missouri. He further explained that the Department treats non-residents the same as Texas residents when determining the appropriateness of issuing a license. Mr. Wright testified that an adjuster represents the insurance company in the loss-settlement process including appraising claim damage, determining policy coverage,

¹⁶ TDI Ex. 1 at 19-36.

¹⁷ TDI Ex. 1 at 13.

determining what deductibles apply, interpreting policy language, and facilitating the transfer of funds to a policyholder.

According to Mr. Lewis, Respondent affirmatively answered on his application that he had felony convictions. Once the Department learned of the convictions, Respondent was requested to provide a statement regarding the convictions along with related court documents and letters of reference. Respondent provided the requested documents to the Department.

Mr. Wright also noted that the application required Respondent to address whether he had received a letter of consent from Missouri to engage in the business of insurance pursuant to 18 United States Code section 1033 (1033 Letter). He explained that this is a federal regulation wherein a state insurance commissioner provides written consent for an applicant with felony convictions involving dishonesty or breach of trust to participate in the business of insurance.¹⁸ According to Mr. Lewis, Respondent answered this question as “not applicable.”¹⁹ He further testified that, to his knowledge, Respondent does not have the required written consent.

Mr. Lewis addressed Respondent’s criminal history. Mr. Lewis acknowledged that for Respondent’s first criminal conviction, the Department did not have any court records to review. According to Mr. Lewis, Respondent

¹⁸ See 18 U.S.C. § 1033(e)(2); *see also* Tex. Ins. Code § 4001.353(a)(4)(B)(ii).

¹⁹ See TDI Ex. 1 at 89.

admitted to this conviction in his written statement.²⁰ This conviction was referenced in the court paperwork for a separate conviction to establish Respondent as a “persistent offender.”²¹ Mr. Lewis testified that Respondent pled guilty to felony stealing in March 1997 for an offense from October 1993. He further testified that this conviction was concerning as it involved theft which includes an element of dishonesty. According to Mr. Lewis, this type of offense is a crime of importance for the Department when making a license determination.

Regarding Respondent’s other felony convictions, Mr. Wright testified that Respondent had convictions for felony possession of burglary tools, felony possession of ephedrine with intent to manufacture methamphetamine, and felony involuntary manslaughter. According to Mr. Wright, crimes of this nature are specifically enumerated as crimes of prime importance in the licensing decision making process.

Mr. Wright was further concerned that, on multiple occasions, Respondent was unable to comply with the requirements instituted in relation to his criminal convictions. Specifically, Respondent had his probation revoked and was charged with felony failure to return to confinement. According to Mr. Wright, the Department considers not only the nature of crime committed but also an applicant’s compliance with the punishment requirements when making a licensure decision.

²⁰ See TDI Ex. 1 at 12.

²¹ See TDI Ex. 1 at 74.

Mr. Wright testified that Respondent was released from parole in 2019. He noted that Respondent's application was filed a little over two years from his parole release. Mr. Wright reviewed Respondent's mitigating documentation. In his opinion, this documentation was insufficient to overcome the seriousness of Respondent's criminal history. Mr. Wright further testified that Respondent appeared to be working as a roofing contractor which may violate another statutory provision preventing adjustors from participating in certain aspects of the roofing business.²² For these reasons, he determined that the license application should be denied.

C. RESPONDENT'S WRITTEN STATEMENTS AND TESTIMONY

In his response to the Department, Respondent detailed the various jobs he has held over the years.²³ His resume outlined the following employment history:

- March 1997-August 2004: Allen Roofing and Supply, Driver/Labor Worker
- August 2004-July 2007: Exterior Building Supply, Branch Manager
- January 2008-October 2017: Missouri Department of Corrections, Recreation Attendant²⁴
- January 2018-April 2020: Roofing Restoration Services of America, Sales Manager

²² See Tex. Ins. Code § 4101.251.

²³ TDI Ex. 1 at 16, 44-45.

²⁴ This position was held while Respondent was incarcerated.

- April 2020-present: Allen Roofing and Siding, Haag Certified Inspector, Estimator

Respondent's response also touched on his criminal history.²⁵ He took responsibility for his crimes which he attributed to his drug habit at the time. Regarding his failure to return to incarceration, Respondent claimed that he accepted a work-release assignment that was offered to him in error; he then later walked off the assignment. He was later sentenced and labeled an "escape risk." He was placed in a treatment program which he completed successfully. He was released from confinement in 2004. Regarding his final conviction for manslaughter, Respondent admitted falling asleep behind the wheel of his vehicle while driving to work after a night of heavy drinking in 2007, causing a collision that killed another driver. He expressed remorse for the lives he destroyed as a result of his actions. He made the determination to be a better person and enrolled in education classes provided through the prison.

At the hearing, Respondent did not deny any of his prior criminal offenses and accepted responsibility for his actions. He completed all of his sentences. He testified that, when he had the accident that took the life of another person, he made a vow to himself that he would make strides to never harm another person again. He testified that he has worked hard to overcome his past choices and does not hide his criminal history from his employers. Since his release from prison, he has worked with insurance claims from the contractor's side. He claimed that he has worked with integrity and followed all rules. He further testified that he earned

²⁵ TDI Ex. 1 at 12-13.

an associate degree while incarcerated. On his release, he won a scholarship and graduated with a Bachelor of Science in Organizational Leadership and Technology in May 2023.

Addressing his lack of a 1033 Letter, Respondent testified that he believed this referred to a letter he had received from Texas saying he was allowed to work in insurance. He did not realize that he actually needed consent from Missouri officials. He further testified that if he is granted a Texas license, he will step away from the roofing contracting business and pursue a career path as an adjuster. He acknowledged the rules prohibiting him from being employed as both a contractor and an adjuster.

D. LETTERS OF RECOMMENDATION²⁶

As part of his application, Respondent submitted three letters of reference from individuals who were familiar with Respondent. They generally described Respondent as dependable, responsible, hardworking, trustworthy, loyal, and an asset to the community. All of the persons who recommended Respondent for licensure were aware of his prior criminal history. Based on his hard work and grades, Respondent was awarded a scholarship for the completion of his bachelor's degree following his graduation from the Saint Louis University Associate of Arts Program, which was part of the prison education program.

²⁶ TDI Ex. 1 at 39-41.

IV. ANALYSIS AND RECOMMENDATION

The Department may deny a license application if the Department determines that the applicant has committed a felony or has engaged in fraudulent or dishonest acts or practices.²⁷ It is undisputed that from 1993 through 2007, Respondent committed multiple felonies, some of which included elements of fraud and/or dishonesty.²⁸ Therefore, pursuant to 28 Texas Administrative Code section 1.502(h), consideration must be given to the factors listed in Code sections 53.022 and .023, set out above, in determining whether to grant Respondent's adjuster license application.

Considering the factors set forth in Code section 53.022, the evidence established that Respondent was convicted of several serious, felony-level offenses that are directly related to the profession of an insurance adjuster. Respondent's crimes involved theft, possession of burglary tools, drug offenses, and involuntary manslaughter. Therefore, crimes such as the ones committed by Respondent are of prime importance to the Department and directly related the occupation of an insurance adjuster.²⁹

Turning to the factors in Texas Occupations Code Section 53.023, the evidence established that Respondent's criminal offenses are both serious and

²⁷ Tex. Ins. Code § 4005.101(b)(5), (8); 28 Tex. Admin. Code § 1.502(e)(1), (4)(A), (F)-(G).

²⁸ While all the offenses were Missouri state law offenses, the majority of Respondent's offenses share essential elements with a Texas offense identified in 28 Texas Administrative Code section 1.502(e) as being of prime importance and directly related to the insurance profession.

²⁹ See 28 Tex. Admin. Code § 1.502(e)(1), (4)(A), (F)-(G).

extensive with his criminal activity encompassing five felony convictions. Respondent, who is now fifty years old, was barely twenty when he committed his first felony in 1993, and most of the offenses were committed before he was thirty years old and seem to be rooted in Respondent's past drug use. Also of concern is that, with some of his earlier offenses, Respondent failed to meet the requirements implemented as part of his punishment, resulting in probation revocations and additional years of incarceration for a failure to return to confinement. However, these failures, like the majority of his criminal history, occurred over 20 years ago. He was released from prison in 2004 and remained crime free until 2007, when he was involved in an accident involving the death of another person. He served 10 years of his 12-year sentence, was released in October 2017, and was released from parole in 2019. There is no evidence of subsequent criminal activity by Respondent. He has established a good record of conduct and has worked consistently over the last five years.

To mitigate his criminal history, Respondent provided information regarding his work history, rehabilitation, and letters of recommendation.³⁰ While he was incarcerated, Respondent earned an associate degree in an effort to better himself. Upon his release, Respondent secured a scholarship and completed a bachelor's degree earlier this year. He also has positive recommendations from members of his community. Respondent was forthcoming in his testimony and documentation, accepted responsibility for his past mistakes, took steps to change his life for the better, and expressed remorse. He presented himself as a person with integrity who is committed to his family and to his career. In the nearly 16 years since his last

³⁰ Tex. Occ. Code § 53.023(a)(4)-(5), (7).

criminal act and nearly six years since his release, the evidence establishes a dedicated effort by Respondent to take responsibility for his actions, to comply with the conditions of his sentence and parole, and to better himself. Therefore, the ALJ finds that the mitigating factors do outweigh the nature, seriousness, and extent of his criminal offenses.

The Department also argued that Respondent may be precluded from Texas licensure because he lacks written consent pursuant to 18 United States Code section 1033 to participate in the business of insurance. This provision prohibits applicants with felony convictions involving elements of dishonesty or breach of trust to participate in the business of insurance without the written consent of a state insurance commissioner.³¹ Respondent, who lives in Missouri, credibly testified that he did not understand that he needed to get this letter from Missouri officials. He believed this was something Texas officials would issue. This ALJ finds that nothing presented in this hearing precludes the Department from providing Respondent the opportunity to acquire such consent.

Accordingly, the ALJ recommends that Respondent's application for a Texas designated home state adjuster license should be granted, provided he is able to acquire the required consent under 18 United States Code section 1033. In support of this recommendation, the ALJ makes the following findings of fact and conclusions of law.

³¹ 18 U.S.C.A. § 1033(e)(2) (1994); *See also* Tex. Ins. Code 4001.353(a)(4)(B)(ii).

V. FINDINGS OF FACT

1. On June 3, 2021, Eric Daniel Webb (Respondent) applied for a Texas designated home state adjuster license with the Texas Department of Insurance (Department).
2. Respondent resides in Missouri.
3. On October 15, 2021, the Department proposed to deny his application.
4. Respondent requested a hearing to challenge the denial.
5. On August 14, 2023, the Department issued an amended notice of hearing on the denial of Respondent's application.
6. The amended 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 incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
7. The hearing in this case was held by videoconference on August 22, 2023, before Administrative Law Judge Michelle Kallas with the State Office of Administrative Hearings (SOAH). Attorneys Nancy Williams and Erik Huhn represented the Department. Respondent represented himself. The hearing concluded that day, and the record closed on September 13, 2023, following the e-filing of the admitted exhibits and submission of the transcript to SOAH.
8. On March 4, 1997, in Cause No. CR193-2134-FX-J1, in the 23rd Judicial Circuit Court of Jefferson County, Missouri, Respondent pled guilty to felony stealing for events occurring on October 3, 1993. Respondent was sentenced to five years' supervised probation. Respondent's probation was revoked. Respondent completed drug treatment while at Farmington Correctional Center and subsequently had his probation reinstated.

9. On January 5, 1998, in Cause No. 2197R-00024-01, in the 21st Judicial Circuit Court of St. Louis County, Missouri, Respondent pled guilty to the offense of felony possession of burglary tools and misdemeanor trespass for events occurring on January 1, 1997. Respondent's sentences were suspended, and he was placed on probation for three years for the felony conviction and two years for the misdemeanor conviction. On March 27, 1998, Respondent's probation was revoked for both offenses. He was sentenced to two years' incarceration for the felony and six months' incarceration for the misdemeanor, both to be served concurrently with Respondent's prior conviction in Cause No. CR193-2134-FX-J1. Respondent was ordered to pay a \$46.00 fine.
10. On September 10, 2001, in Cause No. 01CR324693, in the 19th Judicial Circuit Court of Cole County, Missouri, Respondent pled guilty to felony failure to return to incarceration while under a work-release program for events occurring on December 22, 2000. Respondent was sentenced to five years' incarceration to be served concurrently with any other terms being served. Respondent was ordered to pay a \$46.00 fine.
11. On October 1, 2001, in Cause No. 2199R-04506-01, in the 21st Judicial Circuit Court of St. Louis County, Missouri, Respondent pled guilty to two counts of felony possession of ephedrine with intent to manufacture methamphetamine for events occurring on September 30, 1999, and October 9, 1999. Respondent was sentenced to seven years' incarceration for each count to be served concurrently with Respondent's prior convictions in Cause Nos. CR193-2134-FX-J1 and 01CR324693. Respondent was ordered to pay a \$46.00 fine.
12. On June 10, 2008, in Cause No. 07AB-CR00216, in the 20th Judicial Circuit Court of Franklin County, Missouri, Respondent pled guilty to felony involuntary manslaughter involving intoxication and felony armed criminal action for events occurring on April 21, 2007. Respondent was sentenced to 12 years' incarceration for each charge to be served concurrently with any other terms being served. Respondent was ordered to pay a \$68.00 fine.

13. Respondent was released from prison in October 2017 and has complied with all his conditions for parole. He was released from parole supervision on July 9, 2019.
14. Most of Respondent's felony convictions are crimes of such a serious nature that the Department considers them to be of prime importance in determining whether to issue a license.
15. Respondent was 20-33 years old when he committed the felony offenses.
16. More than 16 years have elapsed since Respondent committed the most recent offense.
17. Nearly 6 years have passed since Respondent completed his sentence and was released from parole. He has not committed any other criminal offenses since that time.
18. While incarcerated, Respondent earned an associate degree. He later earned a scholarship and completed a bachelor's degree program in May 2023.
19. Respondent has been consistently employed in the roofing business for more than five years.
20. Respondent is described as dependable, hardworking, and trustworthy.
21. Respondent is rehabilitated and is a better person today than when he committed the offenses.
22. Respondent does not currently hold written consent from Missouri insurance officials to participate in insurance business activities that affect interstate commerce.
23. Respondent is currently fit to hold a license in Texas.

VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, .015, 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 timely and sufficient notice of hearing. Tex. Gov't Code §§ 2001.051-.052; Tex. Ins. Code § 4005.104(b).
4. The Department had the burden to prove by a preponderance of the evidence that grounds exist to deny Respondent's application. 1 Tex. Admin. Code § 155.427.
5. Respondent had the burden to prove by a preponderance of the evidence that he is fit to perform the duties and discharge the responsibilities of the licensed occupation despite his criminal background. Tex. Occ. Code § 53.023.
6. The Department may deny a license if the Department determines that the applicant has engaged in fraudulent or dishonest acts or practices or has been convicted of a felony. Tex. Ins. Code § 4005.101(b)(5), (8).
7. The Department may deny a license if the applicant 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 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 any offense for which fraud, dishonesty, or deceit is an essential element; theft; a criminal homicide offense; and the manufacture, delivery or possession with intent to manufacture or deliver a controlled substance or dangerous drug. 28 Tex. Admin. Code § 1.502(e)(1), (4)(A), (F)-(G).
9. Respondent's criminal offenses directly relate to the occupation of an insurance adjuster. 28 Tex. Admin. Code § 1.502(e)(1), (4)(A), (F)-(G).
10. The Department will consider the factors listed in Texas Occupations Code sections 53.022 and .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 the 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(f), (h).

11. A person convicted of a felony involving elements of dishonesty and breach of trust may not engage or participate in the business of insurance whose activities affect interstate commerce without the consent of a state insurance commissioner. 18 U.S.C. § 1033(e)(2).
12. Despite his criminal convictions, has Respondent shown the fitness required to perform the duties and discharge the responsibilities of the licensed occupation. Tex. Occ. Code § 53.022-.023; 28 Tex. Admin. Code § 1.502(h)(2).
13. The Department should approve Respondent's application for a Texas designated home state adjuster license once he acquires the necessary consent to participate in the business of insurance.

Signed October 24, 2023.

ALJ Signature:



Michelle Kallas
Presiding Administrative Law Judge

2024-8516

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Associated Case Party: Eric Daniel Webb

Name	BarNumber	Email	TimestampSubmitted	Status
Eric Daniel Webb		[REDACTED]	10/24/2023 2:32:30 PM	SENT

Associated Case Party: Texas Department of Insurance

Name	BarNumber	Email	TimestampSubmitted	Status
Whitney Fraser		Whitney.Fraser@tdi.texas.gov	10/24/2023 2:32:30 PM	SENT
Nancy Williams		Nancy.Williams@tdi.texas.gov	10/24/2023 2:32:30 PM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	10/24/2023 2:32:30 PM	SENT

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	10/24/2023 2:32:30 PM	SENT