

No. 2023-7851

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

**Date: 03/21/2023**

**Subject considered:**

Texas Department of Insurance

v.

Arlette Yammel Reyes

SOAH Docket No. 454-21-2517.C

**General remarks and official action taken:**

The subject of this order is the application by Arlette Yammel Ramirez (formerly Arlette Yammel Reyes) for a life agent license application. This order denies Ms. Ramirez's application for a life agent license.

**Background**

After proper notice was given, the above-styled case was heard by an administrative law judge for the State Office of Administrative Hearings. The administrative law judge made and filed a proposal for decision containing a recommendation that Ms. Ramirez's application be denied. A copy of the proposal for decision is attached as Exhibit A.

The commissioner adopts the administrative law judge's proposed findings of fact and conclusions of law with changes to the conclusions as described in this order.

**Changes to Proposed Conclusion of Law**

The legal authority for changes to the PFD made in this order is Tex. Gov't Code §2001.058(e)(1), which provides 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 . . . that the

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administrative law judge did not properly apply or interpret applicable law, agency rules, written policies [of the agency], or prior administrative decisions. . . ."

Texas Insurance Code § 4005.101(b)(2) and (3)

The Texas Department of Insurance (TDI) Enforcement staff sought denial of Ms. Ramirez's application on several grounds, including allegations that Ms. Ramirez made a material misstatement on her license application in violation of Tex. Ins. Code § 4005.101(b)(2), and that she attempted to obtain a license by fraud or misrepresentation in violation of Tex. Ins. Code § 4005.101(b)(3). These allegations were based on statements Ms. Ramirez made to TDI as part of her application concerning a January 2012 accident she was involved in, a false insurance claim she filed with State Farm Insurance, a false crash report she filed with the police, and her guilty plea to insurance fraud in March 2014.

The administrative law judge concludes that Ms. Ramirez intentionally made a material misstatement on her license application, finding that she (1) stated on her application that the other vehicle involved in the January 2012 collision was not damaged when it in fact was, and (2) made an intentional and material misrepresentation when she said that she made a false insurance claim because she lacked the other motorist's insurance information. The administrative law judge said that this second point created the false impression that Ms. Ramirez's mistake was inadvertent or excusable when it was not.

In the analysis in the proposal for decision, the administrative law judge notes that Ms. Ramirez provided a false explanation for her actions in her application: she did not file a false claim because she lacked information for the other vehicle, but rather she did so because she wanted the insurance money. The administrative law judge correctly concludes that TDI may deny her application under Tex. Ins. Code § 4005.101(b)(2).

However, despite these factual findings showing that Ms. Ramirez made false statements and provided a false explanation for her actions in her license application, the administrative law judge concludes that Ms. Ramirez's actions fall short of trying to obtain a license by fraud or misrepresentation. The administrative law judge provides

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no explanation for this conclusion, other than a parenthetical reference providing the example of "deliberately concealing a criminal history."<sup>1</sup>

Because the administrative law judge fails to provide an analysis of the applicable law to support the conclusion that Ms. Ramirez did not attempt to obtain an insurance license by fraud or misrepresentation, the commissioner declines to adopt this conclusion. But because the administrative law judge otherwise correctly concludes that Ms. Ramirez intentionally made a material misstatement on her license application and that she is not currently fit to perform the duties and discharge the responsibilities of a licensed agent, it is not necessary that further analysis be conducted on this point now, and the commissioner accepts the remaining conclusions of law and the recommendation that Ms. Ramirez's application be denied.

### **Findings of Fact**

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

### **Conclusions of Law**

1. Conclusions of Law Nos. 1–12 and 14 as contained in Exhibit A are adopted by the commissioner and incorporated by reference into this order.
2. The commissioner declines to adopt Conclusion of Law No. 13 as proposed in Exhibit A.


### **Order**

It is ordered that Arlette Yammel Ramirez's (formerly Arlette Yammel Reyes's) life agent license application is denied.

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<sup>1</sup> Because no legal analysis is provided, it is not clear whether the administrative law judge would only consider a deliberate act to be grounds for denial of a license application under Tex. Ins. Code § 4005.101(b)(3). However, TDI notes that a fraudulent act may be committed by someone acting intentionally or recklessly. See *Meyer v. Tex. Dept. of Ins.*, No. 03-10-00642-CV, 2011 WL 5865240 (Tex. App.—Austin 2011, pet. denied) (mem. op.); see also *Johnson & Higgins of Tex., Inc. v. Kenneco Energy, Inc.*, 962 S.W.2d 507, 527 (Tex. 1998) (an individual commits fraud recklessly when he does not possess sufficient information upon which to base a representation or does not know whether a statement he makes is true, but he makes the statement anyway).

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Cassie Brown  
Commissioner of Insurance

Recommended and reviewed by:

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Kara Salmanson, Attorney



TEXAS DEPARTMENT OF  
INSURANCE,  
    Petitioner

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BEFORE THE STATE OFFICE

v.

OF

ARLETTE YAMMEL REYES,  
    Respondent

ADMINISTRATIVE HEARINGS

**PROPOSAL FOR DECISION**

Respondent Arlette Yammel Ramirez (formerly Arlette Yammel Reyes) applied to the Texas Department of Insurance (Department) for an insurance license. Staff for the Department seeks to deny Ms. Ramirez’s application based on her prior conduct, her conviction for insurance fraud, and her statements in her application. After holding a hearing and considering the evidence, the Administrative Law Judge (ALJ) recommends that Ms. Ramirez’s application be denied.

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

Jurisdiction and notice are not disputed and are addressed in the findings of fact and conclusions of law. On September 9, 2021, a hearing was held by videoconference before ALJ Andrew Lutostanski with the State Office of Administrative Hearings. Attorney Stephanie Daniels represented Staff. Ms. Ramirez represented herself. The record closed on October 8, 2021, after receiving written closing arguments.

**II. APPLICABLE LAW**

The Department regulates the practice of insurance and may deny an application for a license for certain reasons.<sup>1</sup> Here, Staff asserts that Ms. Ramirez’s application should be denied for

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<sup>1</sup> Tex. Ins. Code § 4005.101(b).

three reasons: (1) violation of an insurance law; (2) her criminal history; and (3) the statements she made in her application.

**A. Violation of an Insurance Law**

The Department may deny an application if the applicant engaged in prohibited conduct:

- willful violation of an insurance law;<sup>2</sup>
- misappropriation of money belonging to an insurer or insured;<sup>3</sup> or
- fraudulent or dishonest acts or practices.<sup>4</sup>

**B. Criminal History**

The Department may deny an application if the applicant has been convicted of a felony.<sup>5</sup> The Department may also deny an application if the applicant has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.<sup>6</sup> Certain factors are considered when determining whether a crime directly relates to the duties and responsibilities of the licensed occupation.<sup>7</sup> The Department has determined that crimes involving fraud, dishonesty, or deceit are “of prime importance” in determining an applicant’s fitness for licensure.<sup>8</sup> The Department “considers it very important that license holders and applicants . . . be honest, trustworthy, and reliable.”<sup>9</sup>

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<sup>2</sup> Tex. Ins. Code § 4005.101(b)(1).

<sup>3</sup> Tex. Ins. Code § 4005.101(b)(4).

<sup>4</sup> Tex. Ins. Code § 4005.101(b)(5).

<sup>5</sup> Tex. Ins. Code § 4005.101(b)(8).

<sup>6</sup> Tex. Occ. Code § 53.021(a)(1).

<sup>7</sup> Tex. Occ. Code § 53.022.

<sup>8</sup> Tex. Occ. Code § 53.025; 28 Tex. Admin. Code § 1.502(e)(1).

<sup>9</sup> 28 Tex. Admin. Code § 1.502(c).

When deciding whether to deny a license under chapter 53 of the Texas Occupations Code based on an applicant's criminal history, the Department considers certain factors:

- the extent and nature of the person's past criminal activity;
- the age of the person when the crime was committed;
- the amount of time that has elapsed since the person's last criminal activity;
- the conduct and work activity of the person before and after the criminal activity;
- evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;
- evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
- other evidence of the person's fitness, including letters of recommendation.<sup>10</sup>

The Department also considers whether the applicant has maintained a record of steady employment, supported the applicant's dependents if any, otherwise maintained a record of good conduct, and paid all outstanding court costs, supervision fees, fines, and restitution as may have been ordered in all criminal cases in which the applicant has been convicted.<sup>11</sup>

### **C. Statements in the Application**

Finally, the Department may deny an application if the applicant intentionally made a material misstatement in the license application, or obtained or attempted to obtain a license by fraud or misrepresentation.<sup>12</sup>

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<sup>10</sup> Tex. Occ. Code § 53.023(a).

<sup>11</sup> 28 Tex. Admin. Code § 1.502(2)(G).

<sup>12</sup> Tex. Ins. Code § 4005.101(b)(2)-(3).

**D. Process**

The applicant is entitled to a hearing to contest the proposed denial of the application.<sup>13</sup> At the hearing, Staff has the burden of proving, by a preponderance of the evidence, a basis for denying the application.<sup>14</sup> Afterward, the ALJ prepares a proposal for decision with findings of fact and conclusions of law.<sup>15</sup> The Commissioner then considers the proposal for decision and issues a final order.<sup>16</sup>

**III. EVIDENCE****A. Background**

Ms. Ramirez received an insurance license in November 2008.<sup>17</sup> She worked in insurance for about four years, from November 2008 to July 2012. Much of this case involves a January 2012 incident for which Ms. Ramirez pleaded guilty to insurance fraud. Since then Ms. Ramirez has worked in transportation and safety, and more recently she returned to El Paso and applied for an insurance license.

Three people testified at the hearing. Irma Saucedo, a claims adjuster for State Farm Insurance, testified about the January 2012 incident. Lewis W. Wright, IV, an administrative review liaison for the Department, testified about Ms. Ramirez's application for a license and why Staff proposes to deny it. And Ms. Ramirez testified on her own behalf. In addition, several documents were admitted into evidence: Ms. Ramirez's application, court records showing her

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<sup>13</sup> Tex. Ins. Code § 4005.104(a).

<sup>14</sup> 1 Tex. Admin. Code § 155.427.

<sup>15</sup> Tex. Ins. Code § 40.058.

<sup>16</sup> Tex. Ins. Code §§ 40.059-.060.

<sup>17</sup> Staff Ex. 2 at 43.



criminal conviction and discharge from community supervision, a police report, and insurance records. A summary of the evidence follows.

**B. Irma Saucedo's Testimony**

Ms. Saucedo is a claims adjuster for State Farm, where she has worked for 25 years. For most of that time she investigated claims involving possible fraud.

Ms. Saucedo investigated Ms. Ramirez's January 2012 insurance claim. Ms. Saucedo testified that Ms. Ramirez made a claim for damage to her vehicle resulting from a hit-and-run accident: Ms. Ramirez said her vehicle was hit while parked and unoccupied, and the party at fault was unidentified and left the scene. Ms. Ramirez also reported the matter to the police. The crash report similarly states that Ms. Ramirez reported a hit-and-run accident.<sup>18</sup> She told the police that on January 31, 2012, she parked her car at the air pump at a gas station on Lee Trevino Drive and went inside the store to get change for the pump. Another vehicle then backed into her vehicle, causing extensive damage, and drove off. Her car had to be towed.

State Farm inspected Ms. Ramirez's vehicle, determined it was a total loss, and based on Ms. Ramirez's report of what happened, paid for the total loss of Ms. Ramirez's vehicle under the uninsured motorist provision of Ms. Ramirez's insurance policy—\$7,617.41.

About 40 days later, State Farm received a call from Jessica Martinez, Ms. Saucedo said. Ms. Martinez wanted to make a claim against Ms. Ramirez. Ms. Martinez said she was driving down Lee Trevino, the vehicle in front of her stopped so she did as well, and then Ms. Ramirez's vehicle rear-ended hers. They both then pulled into a gas station and exchanged information.

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<sup>18</sup> Staff Ex. 4.

Because of the different versions of events, Ms. Saucedo was assigned to investigate. She held a recorded interview with Ms. Ramirez. Ms. Ramirez said that there were two accidents on the same date. First, when driving on Lee Trevino at about 2 P.M. her niece rear-ended a vehicle, resulting in minor damage to the other vehicle— “just a scratch and some paint transfer on the rear bumper.” Ms. Ramirez said she gave the other driver her contact and insurance information. Some days later, she received photos of the damage to the other vehicle and a \$500 repair estimate. Ms. Ramirez said she offered to make the repair at a different auto shop, but Ms. Martinez declined.<sup>19</sup>

Ms. Ramirez said a second accident occurred later on the same day at about 4:30 P.M. at the same gas station. This time, her vehicle was parked by the air pump, she and her niece went into the store, and when they came back outside the vehicle was damaged: there was front-end damage to the bumper and hood, oil leaking underneath the vehicle, and the vehicle was inoperable. It couldn't move and was later towed.

Ms. Saucedo explained that Ms. Ramirez's insurance policy had coverage for liability, towing, and uninsured motorists, but not for collisions. So if there had been only one collision where Ms. Ramirez's niece rear-ended the vehicle in front of it, then the damage to Ms. Ramirez's vehicle would not have been covered by insurance.

Ms. Saucedo concluded that only one accident occurred: Ms. Ramirez's vehicle rear-ended Ms. Martinez's vehicle. Contrary to Ms. Ramirez's report that the rear-end collision occurred earlier in the day, Ms. Martinez reported that the collision occurred at about 4:30 P.M. after she picked her daughter up from school. Also, according to Ms. Martinez, the picture that Ms. Ramirez gave to State Farm showing the damage to Ms. Ramirez's vehicle depicted the vehicle's condition right after the rear-end collision.

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<sup>19</sup> In a recorded statement with State Farm, Ms. Martinez said Ms. Ramirez wanted to avoid using insurance following the accident; she provided Ms. Ramirez with an estimate for the repair work; and eventually she proceeded to make the repairs because Ms. Ramirez was uncooperative. Staff Ex. 5 at 306.

State Farm asked Ms. Ramirez to reimburse it because the uninsured motorist provision of the policy did not apply to the accident that occurred. State Farm also paid the claim for damage caused to Ms. Martinez's vehicle by the rear-end collision. Ms. Saucedo described the damage as some paint transfer and a crack on the bumper, and pictures similarly show minimal paint transfer and a small crack in the bumper.<sup>20</sup> Two years later, Ms. Ramirez pleaded guilty to insurance fraud and was ordered to make restitution to State Farm.

### C. Lewis W. Wright's Testimony

Mr. Wright has about 35 years of experience in insurance. He was an underwriter for an insurance company, an insurance claims manager for an insurance carrier, and a licensed insurance agent selling insurance in Central Texas. He has worked at the Department for 14 years and is an administrative review liaison responsible for licensing matters.

Mr. Wright testified that insurance is a complex business that may confuse consumers. Because of the complexity of the business and the importance of the matters at stake—significant matters of life and property—it is critical that those transacting insurance are honest, trustworthy, and reliable. To protect the public, a person must apply for an insurance license, and the Department scrutinizes applicants for honesty, trustworthiness, and reliability in order to protect Texas consumers.

Mr. Wright testified that Ms. Ramirez held an insurance license from November 2008 to November 2014, and during that time (in January 2012) she made a false report to an insurance company and the police about the cause of a vehicle accident. Based on her false report, Ms. Ramirez fraudulently collected \$7,617.41 for the total loss of her vehicle. She later pleaded guilty to insurance fraud, he said.

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<sup>20</sup> Staff Ex. 5 at 257-75.

Records show that Ms. Ramirez was indicted for insurance fraud.<sup>21</sup> The indictment alleges that Ms. Ramirez intended to defraud or deceive State Farm when she provided false or misleading information concerning a matter affecting the right to a payment and a false cause for the accident that was the basis of the claim.<sup>22</sup> In March 2014, Ms. Ramirez was convicted of insurance fraud: in the 409th District Court of El Paso County, Texas, Ms. Ramirez pleaded guilty to insurance fraud (between \$1,500 and \$20,000), a Class A misdemeanor.<sup>23</sup> She was convicted and sentenced to one year in jail, but her sentence was suspended, and she was placed under community supervision for two years and ordered to pay \$7,617.41 in restitution.<sup>24</sup> Two years later in April 2016, Ms. Ramirez was discharged from community supervision after successfully completing it.<sup>25</sup>

Mr. Wright discussed Ms. Ramirez statements in her application.<sup>26</sup> He opined that Ms. Ramirez did not take full responsibility for her actions because she questioned State Farm's process and why they did not contact her sooner following Ms. Martinez's claim.<sup>27</sup>

Mr. Wright said he reviewed the entirety of Ms. Ramirez's application. He noted she committed her sole crime when she was about 27 years old. He also reviewed the letters of recommendation provided in support of her application:

- Victor Martinez recommended Ms. Ramirez for licensure.<sup>28</sup> He worked with her at American Income Life where she was the office manager and managed insurance agents and sold insurance. He said he was aware of her criminal past, he praised her work ethic and diligence, and he gave her his "highest recommendation."

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<sup>21</sup> Staff Ex. 2 at 30.

<sup>22</sup> Staff Ex. 2 at 30.

<sup>23</sup> Staff Ex. 2 at 27.

<sup>24</sup> Staff Ex. 2 at 27.

<sup>25</sup> Staff Ex. 2 at 29.

<sup>26</sup> Staff Ex. 2 at 26.

<sup>27</sup> *See generally* Staff Ex. 2 at 26.

<sup>28</sup> Staff Ex. 2 at 32.

- Yvette Delgado also recommended Ms. Ramirez.<sup>29</sup> She worked with Ms. Ramirez at Mutual of Omaha where Ms. Ramirez was an insurance agent. She was familiar with Ms. Ramirez's criminal past, praised Ms. Ramirez's communication, leadership, and sales skills, and recommended her.

Ultimately, Mr. Wright opined that Ms. Ramirez's criminal act was severe and her rehabilitative efforts and the other factors did not outweigh the severity of the offense. He concluded that Staff recommends that Ms. Ramirez's application be denied.

#### **D. Arlette Yammel Ramirez's Testimony**

Ms. Ramirez testified. She discussed her employment history, her criminal history, her application for an insurance license, and why she wants to work in insurance again.

Ms. Ramirez said she married at 18 and opened a convenience store in Mexico. She owned and operated the store, managing employees, payroll, and inventory, and hosting small events to increase business. But then crime surged in Juarez and around the border. The store had to operate on lockdown: locked doors, serving customers only through a small window. This meant no foot-traffic in the store and thus reduced sales. Eventually, after operating for about three years, the store closed in 2005.

Ms. Ramirez then earned her commercial driver's license and began working for a trucking company, Swift Transportation. She drove the road with her ex-husband. They drove together for about two years, until 2007. She then took a short break from work.

About a year later in 2008, Ms. Ramirez received her insurance license and began working in insurance, a field she'd work in for about four years. She started with American Income Life as an insurance agent. "That's probably one of the best jobs I've ever had—an insurance agent," she said. She started making cold calls and offering insurance. She was motivated and built leads and

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<sup>29</sup> Staff Ex. 2 at 33.

succeeded, she said, progressing from an agent to a supervisor to a general manager responsible for 15 insurance agents. She recruited clients and trained new employees. She worked hard, making calls and setting meetings, she said. But then, in 2010, management decided to close the El Paso branch and consolidate in Albuquerque. Ms. Ramirez chose to remain in El Paso. She quickly found work at another firm, Mutual of Omaha. “And same thing. You know, I was very motivated,” she said. Ms. Ramirez worked for Mutual of Omaha for two years. She was one of the top agents there, and she still has occasional contact with some of her clients, she said.

Then in late 2012 she had personal problems with her ex-husband. She moved to Carlsbad, New Mexico and hauled oil from Carlsbad to Hobbs to Midland/Odessa and back for One Source Transportation and sometimes worked in the office. She did that two years, but then the company shut down. She got a job with Pilot Logistics in the frac department, at first taking fuel to the rigs, later driving a small truck around the rigs and refueling the equipment, and finally becoming a safety coordinator responsible for procedures and auditing. But Pilot Logistics grew and merged with another company. Many positions were eliminated and compensation was cut. Ms. Ramirez went to work in safety.

Ms. Ramirez then worked as an office manager and a safety consultant. From January 2016 to June 2018, she was an office manager for Patriot Safety and Services.<sup>30</sup> She supervised and coordinated drug and alcohol testing for employees and drivers. Then, from June 2018 to February 2019, she was a safety consultant for Beyond Development.<sup>31</sup> She conducted risk assessments and audits and provided recommendations.

In February 2019 Ms. Ramirez decided to return to El Paso to be near her family. Her child was born in December 2019, and as a single mother, she wants a more flexible work schedule like the one she had in insurance, she said. Since returning to El Paso, she has done varied work—

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<sup>30</sup> Staff Ex. 2 at 35.

<sup>31</sup> Staff Ex. 2 at 35.

traded stocks and currency, worked on eyelashes, and supplied decorations and equipment for parties and parades. Although this pays her bills, she very much wants her insurance license reinstated, she said. Ms. Ramirez acknowledged that she made a mistake in her personal life, but she emphasized that her professional record is spotless. She said she wants a second chance to work in insurance because she succeeded as an insurance agent and found the work fulfilling.

In her application for license, Ms. Ramirez explained the vehicle accident and what occurred after it. She said Ms. Martinez's vehicle was not damaged, she told Ms. Martinez the name of her insurance provider, and she "had no information on the other vehicle" involved in the accident:

One day I was driving a red Ford Focus Hatchback on Lee Trevino and Vista del Sol when suddenly a Durango stopped at the light and the front of my car hit the hitch of the mentioned SUV. *There was no damage to this SUV since the hitch was pretty long, enough to damage my car and make it a total loss.* At the time of the incident, the lady stated she was fine and so were her kids. *I gave her my information (name and phone number) and I stated my insurance provider (State Farm).* She stated everything was fine and there was no need for a police report or a claim to my insurance. My car was totally damaged. There was water everywhere so I had to park at the gas station right at the corner. I was not able to move my car, so I called my insurance (State Farm) and made a claim. *Since I had no information on the other vehicle, I made an uninsured [motorist] claim.* The insurance company paid my claim \$7,617.41 and kept my car due to a total loss.<sup>32</sup>

At the hearing, Ms. Ramirez acknowledged that Ms. Martinez's vehicle had sustained damage, "very little damage." Ms. Ramirez also testified that following the accident she gave Ms. Martinez her name, phone number, and email address, but not her insurance policy number.<sup>33</sup> Ms. Ramirez acknowledged, however, that a note made by Ms. Martinez listed her name and

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<sup>32</sup> Staff Ex. 2 at 26 (emphasis added).

<sup>33</sup> Tr. at 68.

insurance policy number.<sup>34</sup> Ms. Ramirez said she did not know if Ms. Martinez received the insurance policy number when later speaking to State Farm. Ms. Ramirez also indicated in a prior statement to State Farm that she never requested Ms. Martinez's information "cuz, I was like, why am I gonna get her information for."<sup>35</sup> Ms. Ramirez said she was truthful in her application, and she provided her criminal history. She said she acknowledges her mistake.<sup>36</sup>

Ms. Ramirez admitted that she committed insurance fraud. She said she was young and made a mistake. She pleaded guilty, and since then she repaid State Farm, performed community service, and successfully completed her community supervision. She testified that she "learned her lesson." She said she returned from a trip to Mexico, was arrested on the bridge because she had an outstanding warrant she was unaware of, went to jail, and her husband refused to pay her bond. It was "a big eye opening." She said she wants the opportunity to prove herself again.

#### IV. ANALYSIS

Staff argues that Ms. Ramirez's application should be denied for three reasons. The ALJ examines the reasons.

First, Staff argues that while a licensed insurance agent in January 2012 Ms. Ramirez willfully violated an insurance law, misappropriated an insurer's money, and committed a fraudulent or dishonest act. The ALJ agrees. The evidence shows that Ms. Ramirez deceived an insurance company by filing a false insurance claim to recover the value of her totaled car—about

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<sup>34</sup> Staff Ex. 5 at 197 (envelope with insurance policy number); Staff Ex. 5 at 310 (in a recorded interview with State Farm, Ms. Martinez said that she made the note on the envelope in the gas station parking where they exchanged information and "I wrote down all of her information"); Staff Ex. 5 at 305-06 (in another recorded interview, Ms. Martinez said they "exchanged insurance information" and that she "got down all her information and driver's license and policy number").

<sup>35</sup> Staff Ex. 5 at 286.

<sup>36</sup> However, in a recent letter in response to the allegations in this case, Ms. Ramirez wrote: "In regards to the non-insured accident, the person lied about damages to her car and I was wrongfully blamed for her car damage." Resp. Ex. 1.



\$7,500. She also filed a false crash report with the police to aid her in recovering the insurance money. And when the insurance company investigated the suspect claim, Ms. Ramirez lied again about the cause of her vehicle's damage. Because Ms. Ramirez willfully violated an insurance law, misappropriated an insurer's money, and committed a fraudulent or dishonest act, the Department may deny her application under sections 4005.101(b)(1), (4), and (5) of the Texas Insurance Code.

Second, Staff argues that Ms. Ramirez intentionally made a material misstatement in her application and tried to obtain a license by fraud or misrepresentation. In her application, Ms. Ramirez stated, "Since I had no information on the other vehicle, I made an uninsured [motorist] claim." The ALJ finds that this was an intentional and material misstatement. The evidence shows Ms. Ramirez's vehicle was severely damaged in the accident, and Ms. Ramirez and Ms. Martinez exchanged information in the gas station parking lot. Ms. Ramirez knew that her vehicle was severely damaged and could have gathered Ms. Martinez's insurance information. She said she chose not to because "like, why am I gonna get her information": it was not going to help her recover anything. Ms. Ramirez's statement in her application is material because it goes directly to why she made the false claim, and in her application she provided a false explanation for her actions. She did not file a false claim because she lacked information on the other vehicle. She did so because she wanted the insurance money. Because Ms. Ramirez made a material misstatement in her application, the Department may deny her application under section 4005.101(b)(2). But although Ms. Ramirez materially misstated the reason for her conduct, the ALJ concludes that this falls short of trying to obtain a license by fraud or misrepresentation (such as, for example, by deliberately concealing a criminal history). The Department therefore cannot deny her application under section 4005.101(b)(3).

Last, Staff argues that Ms. Ramirez's application should be denied under chapter 53 of the Texas Occupations Code and 28 Texas Administrative Code § 1.502. The ALJ considers the relevant factors. Ms. Ramirez committed her sole criminal activity of insurance fraud in 2012 when she was about 27 years old. She was an adult at the time and should have known better because she herself was an insurance agent. About 10 years have passed since Ms. Ramirez's criminal activity,

and her conduct and work activity has been positive. Ms. Ramirez repaid the insurance company, performed community service, and successfully completed the terms of her community supervision. Two letters of recommendation speak positively of her work ethic and ability to perform as an insurance agent. Ms. Ramirez has also supported her child and has otherwise maintained a record of good conduct. Ultimately, however, although much time has passed since the event, the severity of Ms. Ramirez's prior conduct committing insurance fraud and her recent conduct providing inaccurate statements in her application suggest that her application should be denied at this time. Under the Department's rules and for the protection of the public, it is very important that those engaging in insurance are honest, trustworthy, and reliable. Ms. Ramirez was an insurance agent who committed insurance fraud by lying to an insurance company, filing a false crash report with the police, and later lying again to the insurance investigator. Although time has passed since then, her recent statements continue to show a lack of accuracy. In her application, she stated the other vehicle was not damaged when it was, and rather than accepting responsibility for her past, she tried to pass off her misconduct as understandable due to lacking the other motorist's insurance information. Furthermore, in a recent letter Ms. Ramirez persisted in claiming that the other motorist "lied about damages to her car" and "wrongfully blamed" her.

Overall, after considering the relevant law and all the applicable factors, the evidence indicates that at this time Ms. Ramirez lacks the honesty, trustworthiness, and integrity to hold an insurance license. The ALJ therefore recommends that her application for an insurance license be denied.

## V. FINDINGS OF FACT

1. Arlette Yammel Ramirez (formerly Arlette Yammel Reyes) applied to the Texas Department Insurance (Department) for an insurance license in December 2019.
2. Ms. Ramirez married at 18 and operated a convenience store in Mexico for three years. Then crime surged in Juarez and around the border and the store closed.
3. In 2005, Ms. Ramirez earned a commercial driver's license. From about December 2005 to November 2007, she worked for Swift Transportation transporting goods by truck.

4. In November 2008, Ms. Ramirez received an insurance license from the Department.
5. From November 2008 to September 2010, Ms. Ramirez worked for American Income Life as a life insurance agent. She performed well and was promoted.
6. From September 2010 to July 2012, Ms. Ramirez worked for Mutual of Omaha as an office sales manager. She worked with clients on their insurance needs and trained and supervised other insurance agents.
7. In January 2012, Ms. Ramirez's niece drove Ms. Ramirez's vehicle while Ms. Ramirez rode along as a passenger. Ms. Ramirez's niece rear-ended the vehicle in front of them, and the parties pulled into a gas station where they exchanged contact and insurance information, including Ms. Ramirez's insurance policy number.
8. The other vehicle sustained minor damage—some paint transfer and a crack in the bumper.
9. Ms. Ramirez's vehicle was totaled. There was front-end damage to the bumper and hood, liquid leaking underneath the vehicle, and the vehicle was inoperable and could not move from its parking spot in the gas station by the air pump. The vehicle was later towed.
10. Ms. Ramirez was a licensed insurance agent. She knew that her insurance policy covered liability, towing, and uninsured motorists but not collisions.
11. Ms. Ramirez told the other driver she wanted to resolve the matter privately, not through insurance.
12. Afterward, Ms. Ramirez filed a false insurance claim with State Farm Insurance, lying about the accident and claiming it was caused by an unidentified motorist who drove off. Ms. Ramirez did this because she wanted the insurance money.
13. Ms. Ramirez also filed a false crash report with the police department.
14. Based on her false statements, Ms. Ramirez fraudulently collected \$7,617.41 from State Farm for the total loss of her vehicle.
15. Ms. Ramirez was approximately 27 years old when she committed insurance fraud.
16. After Ms. Ramirez failed to pay the other driver for the approximately \$500 of damage to the other vehicle, the other driver made an insurance claim with State Farm to recover the damages.
17. Ms. Ramirez lied to the State Farm investigator about the accident.

18. In March 2014, in the [REDACTED] of El Paso County, Texas, Ms. Ramirez pleaded guilty to insurance fraud (between \$1,500 and \$20,000), a Class A misdemeanor. She was convicted and sentenced to one year in jail, but her sentence was suspended, and she was placed under community supervision for two years and ordered to pay \$7,617.41 in restitution.
19. Ms. Ramirez performed community service, made full restitution to State Farm, and was discharged from community supervision after successfully completing it.
20. From August 2012 to February 2013, Ms. Ramirez worked for One Source Transportation. She transported oil on the road and sometimes worked in the office.
21. From June 2013 to December 2015, Ms. Ramirez worked for Pilot Logistics. She transported fuel to oil rigs, drove a truck around the rigs and refueled equipment, and eventually became a safety coordinator responsible for procedures and auditing.
22. From January 2016 to June 2018, Ms. Ramirez was an office manager for Patriot Safety and Services. She supervised and coordinated drug and alcohol testing for employees and drivers.
23. In February 2019, Ms. Ramirez returned to El Paso to be near her family. Her first child was born in December 2019. Since returning to El Paso, Ms. Ramirez has traded stocks and currency, worked on eyelashes, and supplied decorations and equipment for parties and parades. Ms. Ramirez supports her child with her earnings.
24. Ms. Ramirez applied to the Department for an insurance license in December 2019.
25. Ms. Ramirez inaccurately stated on her application for a license that the other vehicle involved in the January 2012 collision was not damaged when it was.
26. Ms. Ramirez made an intentional and material misrepresentation on her application for a license when she said that she made the false insurance claim because she lacked the other motorist's insurance information. This created the false impression that her mistake was inadvertent or excusable when it was not.
27. Ms. Ramirez's last criminal activity was in January 2012. About ten years have passed since then.
28. Ms. Ramirez's work activity has been positive. She has a strong work ethic as shown by her employment history and as evidenced by two letters of recommendation in support of her application.

29. Staff denied Ms. Ramirez's application for an insurance license, and Ms. Ramirez requested a hearing to contest the proposed denial.
30. On June 2, 2021, Staff for the Department issued a notice of hearing.
31. On June 17, 2021, State Office of Administrative Hearings (SOAH) Order No. 1 was sent to the parties.
32. Together, the notice of hearing and SOAH Order No. 1 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.
33. On September 9, 2021, a hearing was held by videoconference before Administrative Law Judge Andrew Lutostanski with the SOAH. Attorney Stephanie Daniels represented Staff. Ms. Ramirez represented herself. The record closed on October 8, 2021, after receiving written closing arguments.

## VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Ins. Code chs. 4001, 4005.
2. SOAH has authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Ins. Code § 4005.104.
3. Ms. Ramirez received timely and sufficient notice of hearing. Tex. Gov't Code §§ 2001.051-.052; Tex. Ins. Code § 4005.104(b).
4. Staff had the burden of proving a basis for denying the license application. 1 Tex. Admin. Code § 155.427.
5. The standard of proof is by a preponderance of the evidence. *Granek v. Tex. St. Bd. of Med. Examin'rs*, 172 S.W.3d 761, 777 (Tex. App. — Austin 2005, no pet.).
6. The Department may deny a license application if an applicant willfully violated an insurance law, misappropriated money belonging to an insurer, or committed fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(1), (4), (5).

7. Ms. Ramirez willfully violated an insurance law, misappropriated money belonging to an insurer, and committed fraudulent or dishonest practices. Tex. Ins. Code § 4005.101(b)(1), (4), (5).
8. The Department may disqualify a person from receiving a license on the grounds that the person 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).
9. Insurance fraud is a crime that relates to the duties and responsibilities of an insurance agent. 28 Tex. Admin. Code § 1.502(e)(1).
10. The preponderance of the evidence shows that Ms. Ramirez is not currently fit to perform the duties and discharge the responsibilities of a licensed insurance agent or adjuster. Tex. Occ. Code § 53.023; 28 Tex. Admin. Code § 1.502.
11. The Department may deny an application for a license if the applicant intentionally made a material misstatement in the license application, or obtained or attempted to obtain a license by fraud or misrepresentation. Tex. Ins. Code § 4005.101(a)(2)-(3).
12. Ms. Ramirez intentionally made a material misstatement her license application. Tex. Ins. Code § 4005.101(a)(2).
13. Ms. Ramirez did not attempt to obtain an insurance license by fraud or misrepresentation. Tex. Ins. Code § 4005.101(a)(3).
14. Ms. Ramirez's application for an insurance license should be denied.

**SIGNED December 2, 2021.**

/s/ Andrew Lutostanski  
Administrative Law Judge  
State Office of Administrative Hearings