

No. **4569**

**OFFICIAL ORDER
of the
TEXAS COMMISSIONER OF INSURANCE**

Date: JUL 08 2016

Subject Considered:

LAURA ANN KUYKENDALL
325 Edgehill Boulevard
Richardson, Texas 75081

DEFAULT ORDER
SOAH DOCKET NO. 454-16-3885.C
TDI ENFORCEMENT FILE NO. 9240

General remarks and official action taken:

The commissioner of insurance considers the limited lines agent license application for Laura Ann Kuykendall.

Findings of Fact

1. Laura Ann Kuykendall submitted an application for a limited lines agent license to the department on December 9, 2014.
2. The department proposed to deny Kuykendall's application on March 13, 2015, based on her criminal history. She appealed that decision and made a written request for a hearing.
3. On April 27, 2016, the department sent a notice of hearing to Kuykendall's last known address provided in writing to the department, 325 Edgehill Boulevard, Richardson, Texas 75081, and one additional address, 1800 Lee Trevino Boulevard, El Paso, Texas 79936.
4. Kuykendall failed to file a written response to the notice of hearing within 20 days of the date the notice of hearing was mailed.
5. On April 14, 1993, in Case No. MA9340955, Kuykendall pleaded guilty to theft, a misdemeanor, and the District Court of Dallas County, Texas sentenced her to twelve months of probation and ordered her to pay a \$500 fine. On March 24, 1994, the court revoked her probation and imposed a 120-day jail sentence.
6. On April 16, 1993, in Case No. MA9342117, Kuykendall pleaded guilty to theft, a misdemeanor, and the District Court of Dallas County, Texas sentenced her to 24 months of probation and ordered her to pay a \$500 fine.

7. On November 5, 1993, in Cause No. F9324249-Q, Kuykendall pleaded guilty to forgery, a third-degree felony, and the 204th District Court of Dallas County, Texas sentenced her to five years of probation and ordered her to pay a \$300 fine. On February 7, 1994, the court revoked her probation, imposed a three-year jail sentence, and ordered her to pay a \$300 fine.
8. On November 5, 1993, in Cause No. F9324250-Q, Kuykendall pleaded guilty to forgery, a third-degree felony, and the 204th District Court of Dallas County, Texas sentenced her to five years of probation and ordered her to pay a \$300 fine. On February 7, 1994, the court revoked her probation, imposed a three-year jail sentence, and ordered her to pay a \$300 fine.
9. On November 8, 1993, in Case No. MA9324356, Kuykendall pleaded guilty to resisting arrest, a misdemeanor, and the District Court of Dallas County, Texas sentenced her to thirty days in jail.
10. On February 7, 1994, in Cause No. F9370310-SQ, Kuykendall pleaded guilty to the unlawful possession of a controlled substance: cocaine, a second-degree felony, and the 204th District Court of Dallas County, Texas sentenced her to three years in jail.
11. On February 22, 1994, in Case No. MA9347843, Kuykendall pleaded guilty to resisting arrest, a misdemeanor, and the District Court of Dallas County, Texas sentenced her to seventy-five days in jail.
12. On February 22, 1994, in Case No. MA9440520, Kuykendall pleaded guilty to resisting arrest, a misdemeanor, and the District Court of Dallas County, Texas sentenced her to sixty days in jail.
13. On March 28, 1995, in Cause No. F9543753-KW, Kuykendall pleaded guilty to forgery, a felony, and the 363rd District Court of Dallas County, Texas sentenced her to two years in jail and four years of community service and ordered her to pay a \$500 fine.
14. On February 22, 1999, in Case No. MA9337053, Kuykendall pleaded guilty to theft, a misdemeanor, and the District Court of Dallas County, Texas sentenced her to seventy-five days in jail and ordered her to pay a \$217 fine.
15. For question seven, under Part I, of her license application, Kuykendall checked "no" in response to the following:
 - a. "Have you ever been convicted of any misdemeanor or felony offense in Texas, in any other state or by the federal government?"
 - b. Have you ever served any period of probation for any misdemeanor or felony offense in Texas, in any other state or by the federal government?"

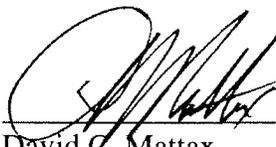
16. On Part VIII – Individual Applicant Signature Page of her license application, Kuykendall signed the statement certifying she personally answered all of the application questions with true and correct answers. She further certified acknowledgment that she was subject to both disciplinary action and criminal prosecution if her application contains a false, fictitious, or fraudulent statement or entry with regard to any material fact.

Conclusions of Law

1. The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, 4051.101 and 4054.101, and TEX. GOV'T CODE ANN. §§ 2001.051- 2001.178.
2. TEX. GOV'T CODE § 2001.056; TEX. INS. CODE § 82.055; and 28 TEX. ADMIN. CODE §§ 1.47, 1.88, and 1.89 give the commissioner authority to dispose of this case informally.
3. Based on 28 TEX. ADMIN. CODE § 19.906, Kuykendall's last known address is presumed to be 325 Edgehill Boulevard, Richardson, Texas 75081.
4. TDI sent a notice of hearing to Kuykendall's last known address, as required by 28 TEX. ADMIN. CODE §§ 1.28(c) and 1.88(c), 1 TEX. ADMIN. CODE § 155.401, and TEX. GOV'T CODE Ch. 2001.
5. The allegations in the notice of hearing, set out herein as findings of fact nos. 1-2 and 5-16, are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.
6. Based on Kuykendall's prior criminal history, she has committed acts for which a license may be denied under TEX. INS. CODE, Chapter 4005, Subchapter C, because:
 - a. she intentionally made a material misstatement in the license application, as contemplated by TEX. INS. CODE § 4005.101(b)(2);
 - b. she attempted to obtain a license by fraud or misrepresentation, as contemplated by TEX. INS. CODE § 4005.101(b)(3);
 - c. she engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5); and
 - d. she was convicted of a felony, as contemplated by TEX. INS. CODE § 4005.101(b)(8).
7. Kuykendall was convicted of an offense that the department considers to be of such serious nature that it is of prime importance in determining fitness for licensure or authorization, as contemplated by 28 TEX. ADMIN. CODE § 1.502(e).

8. Department guidelines, 28 TEX. ADMIN. CODE § 1.502(c) – (e), emphasize that TDI:
 - a. considers it very important that applicants be honest, trustworthy, and reliable;
 - b. may refuse to issue an original license if the department determines that the applicant has committed an offense that directly relates to the duties and responsibilities of the licensed occupation; and
 - c. considers the offenses of theft and forgery to be of such a serious nature that they are of prime importance when determining fitness for licensure because the offenses are:
 - i. offenses for which fraud, dishonesty, or deceit is an essential element. 28 TEX. ADMIN. CODE § 1.502(e)(1).
9. Kuykendall was convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation, as contemplated by TEX. OCC. CODE § 53.021(a)(1) and 28 TEX. ADMIN. CODE § 1.502(d).

The commissioner of insurance denies Laura Ann Kuykendall's application for a limited lines agent license.



David C. Mattax
Commissioner of Insurance

