

No. 2016-4824

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

Date: DEC 01 2016

Subject Considered:

BRIAN BLACK
4404 Idalou Road
Lubbock, Texas 79403

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 10295

The Commissioner of Insurance considers whether a general lines agent license with a property and casualty qualification should be issued to Brian Black.

WAIVER

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

FINDINGS OF FACT

The commissioner makes the following findings of fact:

1. On April 20, 2015, Black submitted an application for a general lines agent license with a property and casualty qualification to be issued by the Texas Department of Insurance. The department proposed to deny issuance of the license based on his criminal history. Black made a written request for a hearing.
2. On September 22, 2000, Black was convicted of grand theft exceeding \$100,000, a felony in the state of California. The offense occurred from May 1, 1998, through August 31, 1999. Black was sentenced to three years confinement and ordered to pay \$250,000 in restitution. Black was released from confinement after 18 months and began a year of parole supervision.
3. Black currently owes the State of California \$250,000 in restitution. Black maintains that the organization originally listed as the victim of his actions is no longer a viable entity. Victim Services of California confirmed to the department that the State of California has

not taken action to collect on the order of restitution since Black was released from parole in 2003. Black is aware that California has the ability to enforce the restitution order and agrees to comply with any such action.

4. Black has cooperated with TDI in its investigation of his criminal background. Black provided mitigating evidence to support his fitness for licensure as follows:
 - a. he voluntarily went to the police to report his crime;
 - b. he has been employed since released from confinement in 2002, holding jobs, including management positions, with access to money and individuals' personal information;
 - c. he has been employed with Porter Insurance Agency since 2014, and his job duties include answering phones, filing, and customer care;
 - d. Randy Porter, his current employer and a licensed insurance agent with no complaint history with the department, has agreed to sponsor him for his insurance license;
 - e. he has submitted four letters of recommendation from persons aware of his past conduct who consistently refer to him as a changed man who has learned from his mistakes;
 - f. he has accepted responsibility and expressed remorse for his criminal conduct.
5. Due to Black's criminal background, the department needs an opportunity to monitor his insurance activities to ensure he demonstrates the ability, capability and fitness required to perform and discharge the responsibilities of a licensed insurance agent.

CONCLUSIONS OF LAW

The commissioner makes the following conclusions of law:

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4001.102, 4001.105, 4005.101-4005.103, and 4051.051; TEX. GOV'T CODE §§ 2001.051-2001.178; 28 TEX. ADMIN. CODE § 1.502; and TEX. OCC. CODE §§ 53.021-53.023.
2. The commissioner has the authority to dispose of this case informally pursuant to TEX. GOV'T CODE § 2001.056, TEX. INS. CODE § 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Black committed an act for which the department may deny a license pursuant to TEX. INS. CODE §§ 4001.105 and 4005.101.

4. Pursuant to 28 TEX. ADMIN. CODE § 1.502(f), the commissioner has determined that the factors in TEX. OCC. CODE §§ 53.022 and 53.023 outweigh the serious nature of Black's criminal conviction.
5. The commissioner is an insurance regulatory official authorized to regulate Black's activities in the business of insurance. The commissioner has primary jurisdiction to grant Black written consent to engage or participate in the business of insurance, pursuant to 18 U.S.C. § 1033.

The commissioner of insurance orders that a general lines agent license with a property and casualty qualification is granted to Brian Black. The commissioner further orders that the general lines agent license with a property and casualty qualification is suspended for four years, probated.

If, during the probation period imposed by this order, the department issues any additional licenses or authorizations to Brian Black, those additional licenses or authorizations will be suspended until the probation period imposed by this order has ended. The suspension shall be probated, and the same terms and conditions stated in this order will apply.

Beginning from the date of this order and continuing through the probation period, Black must comply with the following terms and conditions:

- a. He must be sponsored by a licensed, Texas insurance agent who agrees in writing to monitor Black's acceptance and handling of premium payments. Black must notify the department in writing of any change in his sponsoring agent and must submit the agent's written consent to monitor Black's acceptance and handling of premium payments to the department within 10 days of any change. Black should submit this written notification and written consent to the Texas Department of Insurance, Attn: Catherine Bell or her successor, Enforcement Section, Mail Code 110-1A, P.O. Box 149104, Austin, Texas 78714-9104.
- b. He must provide written notice of his criminal record to any appointing company, agency, or sponsor. Black must provide the department with a copy of the notification within 30 days of the appointment or sponsorship to the Texas Department of Insurance, Attn: Catherine Bell or her successor, Enforcement Section, Mail Code 110-1A, P.O. Box 149104, Austin, Texas 78714-9104.
- c. He must provide written notice of this order to any appointing company, agency, or sponsor. Black must provide the department with a copy of the notification within 30 days of the appointment or sponsorship to the Texas Department of Insurance, Attn: Catherine Bell or her successor, Enforcement Section, Mail Code 110-1A, P.O. Box 149104, Austin, Texas 78714-9104.
- d. He must file a written report, on or before the 15th day of each month, with the Texas Department of Insurance, Attn: Catherine Bell or her successor, Enforcement

Section, Mail Code 110-1A, P.O. Box 149104, Austin, Texas 78714-9104. The reports must include the following information:

- i. Black's current mailing address and telephone number;
 - ii. the name, mailing address, and telephone number of Black's employer;
 - iii. the name and mailing address of any insurer which has appointed Black as a general lines agent;
 - iv. the name and address of any insurer which has canceled Black's appointment as a general lines agent; and
 - v. a copy of any and all contracts Black has entered into with an insurer, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.
- e. Black must notify the department immediately of the following:
- i. any charges or indictments filed against him for a misdemeanor or felony during the period he is required to file reports, excluding traffic offenses and Class C misdemeanors;
 - ii. any state or regulatory actions taken against him including formal and informal actions;
 - iii. any change in his employment or his residence; and
 - iv. any complaint made against him concerning his performance as a general lines agent, as well as a written explanation detailing the steps taken to resolve it.

The commissioner grants written consent, as contemplated by 18 U.S.C. § 1033(e)(2), for Black to perform the acts of an agent with respect to persons that are domiciled in and risks and subjects of insurance that are resident, located, or to be performed in Texas. This written consent will remain in effect for as long as Black renews his license. This written consent terminates immediately if any insurance license or authorization held by Black is suspended or revoked.



David C. Mattax

Commissioner of Insurance

APPROVED AS TO FORM AND CONTENT:

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

Stephanie Andrews

Staff Attorney

Compliance Division, Enforcement Section

Texas Department of Insurance

AFFIDAVIT

STATE OF TEXAS §
COUNTY OF Hockley §

Before me, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposited as follows:

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

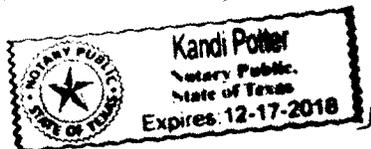
I waive rights provided by the Texas Insurance Code and other applicable law and acknowledge the jurisdiction of the commissioner.

I have knowingly and voluntarily entered into this Consent Order and agree with and consent to the issuance and service of the same by the Commissioner of insurance of the State of Texas."

Brian Black
Affiant

SWORN TO AND SUBSCRIBED before me on this 18th day of November, 2016.

(NOTARY SEAL)



Kandi Potter
Signature of Notary Public