

No. 2017- 4899

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

Date: JAN 10 2017

Subject Considered:

ERMALEIGH PEIFER
830 E. Industry
Giddings, Texas 78942

CONSENT ORDER
TDI ENFORCEMENT FILE NO. 11138

General remarks and official action taken:

The commissioner of insurance considers whether a general lines agent license with a property and casualty qualification should be issued to Ermaleigh Peifer.

WAIVER

Peifer acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Peifer 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. Peifer previously had a group I insurance agent's license, solicitor for local recording agent's license, and a risk manager's license issued by TDI.
2. On August 19, 1995, Peifer was convicted of fiduciary misapplication \$10,000 to \$100,000, a felony of the second degree. She was sentenced to ten years' incarceration in the Texas Department of Criminal Justice Institutional Division. The court suspended the sentence and placed her on community supervision for ten years, fined her \$1,000, and ordered her to pay restitution in the amount of \$100,414.54 and court costs.
3. On May 13, 1997, the commissioner issued order number 97-0459 revoking Peifer's insurance licenses based on her felony conviction.
4. Peifer completed her community supervision and paid her restitution in full in the amount of \$100,414.54. Peifer was discharged on September 27, 2006.

5. In 2007, Peifer submitted an application for a general lines agent license with a property and casualty qualification to be issued by TDI. TDI proposed to deny her application. Peifer withdrew her application in October of 2009.
6. On January 6, 2016, Peifer submitted an application for a general lines agent license with a property and casualty qualification to be issued by TDI.
7. Peifer has cooperated with TDI in its investigation of her criminal background. She also provided mitigating evidence to support her fitness for licensure as follows:
 - a. She has paid back the restitution subject to criminal prosecution;
 - b. She has been employed since 1999 by various insurance agencies. In these positions, Peifer was responsible for training staff, updating computer programs, and providing other support as needed;
 - c. She has submitted eleven letters of recommendation, including letters from her current employer and co-workers. All recommenders are aware of her criminal history. They consistently state that Peifer is a person of integrity and that she is trustworthy and honest; and
 - d. She has also accepted responsibility and expressed remorse for her criminal conduct.
8. Due to Peifer's criminal background, TDI needs an opportunity to monitor her insurance activities to ensure she demonstrates the ability, capability, and fitness required to perform and discharge the responsibilities of an 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 the provisions of TEX. GOV'T CODE § 2001.056, 28 TEX. ADMIN. CODE § 1.47, and TEX. INS. CODE § 82.055.
3. Peifer committed an act for which TDI may deny a license under TEX. INS. CODE §§ 4001.105 and 4005.101(b)(8).
4. Pursuant to 28 TEX. ADMIN. CODE § 1.502(f), the commissioner has determined that the factors in TEX. OCC. CODE §§ 53.022–53.023 outweigh the serious nature of Peifer's criminal conviction.

COMMISSIONER'S ORDER

Ermaleigh Peifer

Page 3 of 5

5. The commissioner is an insurance regulatory official authorized to regulate Peifer's activities in the business of insurance pursuant to TEX. INS. CODE § 4005.103. The commissioner has primary jurisdiction to grant Peifer 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 Ermaleigh Peifer. The commissioner further orders that the general lines agent license with a property and casualty qualification is suspended for five years, probated.

If, during the probation period imposed by this order, the department issues any additional licenses or authorizations to Ermaleigh Peifer, 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, Peifer must provide written notice of her criminal record to any appointing company, agency, or sponsor. Peifer must provide TDI with a copy of the notification within 30 days of the appointment or sponsorship by sending it 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.

Beginning from the date of this order and continuing through the probation period, Peifer must file a written report, on or before the 15th day of each quarter, 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:

- a. Peifer's current mailing address and telephone number;
- b. the name, mailing address, and telephone number of Peifer's employer, and if Peifer is self-employed, a statement that she is self-employed and the name, mailing address, and telephone number of her business;
- c. the name and address of any insurer that has appointed Peifer as a general lines agent;
- d. the name and address of any insurer that has canceled Peifer's appointment as a general lines agent; and
- e. a copy of any and all contracts Peifer has entered into with an insurer, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.

Peifer must notify TDI immediately of the following:

- a. any charges or indictments filed against her for a misdemeanor or felony during the period she is required to file reports, excluding traffic offenses and Class C misdemeanors;
- b. any state or regulatory actions taken against her including formal and informal actions;

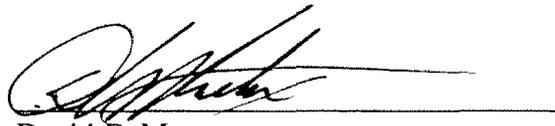
COMMISSIONER'S ORDER

Ermaleigh Peifer

Page 4 of 5

- c. any change in her employment or her residence; and
- d. any complaint made against Peifer concerning her performance as a general lines agent as well as a written explanation from Peifer detailing the steps she has taken to resolve the complaint.

The commissioner grants written consent, as contemplated by 18 U.S.C. § 1033(e)(2), for Peifer to perform the acts of an agent with respect to persons who 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 Peifer continues to renew her license. This written consent terminates immediately if any insurance license or authorization held by Peifer is suspended or revoked.



David C. Mattax
Commissioner of Insurance

APPROVED AS TO FORM AND CONTENT:



Amy L. K. Wills
Staff Attorney
Compliance Division, Enforcement Section
Texas Department of Insurance

Affidavit

STATE OF TEXAS

§
§
§

COUNTY OF Lee

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

"My name is Ermaleigh Peifer. 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."

Ermaleigh Peifer
Affiant

SWORN TO AND SUBSCRIBED before me on this 15th day of December, 2016.

(NOTARY STAMP)

Nina Kay Smith
Signature of Notary Public

