

No. **4432**

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

Date: MAY 04 2016

Subject Considered:

MARIE YVONNE CABRERA
2003 47th Street
Lubbock, Texas 79412

DEFAULT ORDER
SOAH DOCKET NO. 454-16-3327.C
TDI ENFORCEMENT FILE NO. 9461

General remarks and official action taken:

The commissioner of insurance considers the county mutual agent license application for Marie Yvonne Cabrera.

Findings of Fact

1. Marie Yvonne Cabrera submitted an application for a county mutual agent license to the department on October 14, 2014.
2. The department proposed to deny Cabrera's application on May 14, 2015, based on her criminal history. She appealed that decision and made a written request for a hearing.
3. On March 24, 2016, the department sent a notice of hearing to Cabrera's last known address, 2003 47th Street, Lubbock, Texas 79412, and one additional address, 3030 North Stemmons Fwy., No B, Dallas, Texas 75247.
4. Cabrera 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 October 29, 2001, the 364th District Court of Lubbock County, Texas placed Cabrera on community supervision for five years and ordered her to pay \$3,672.68 in restitution and court costs for the offense of Theft of Property involving the aggregate value of \$1,500 or more but less than \$20,000, a class A misdemeanor. On October 16, 2006, the Court found that she violated the terms and conditions of her community supervision. The Court ordered her confinement to the Jefferson County Women's Center and extended her community supervision for five years. She was discharged from probation on April 20, 2007.

6. On June 24, 2014, the 137th District Court of Lubbock County, Texas placed her on community supervision for two years and ordered her to pay \$13,583.02 in restitution and court costs for the offense of Theft of Property involving the aggregate value of \$1,500 or more but less than \$20,000, a class A misdemeanor. She is currently on community supervision until June 23, 2016.

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, and 4051.201, and TEX. GOV'T CODE §§ 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, Cabrera's last known address is presumed to be 2003 47th Street, Lubbock, Texas 79412.
4. TDI sent a notice of hearing to Cabrera'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 as findings of fact nos. 5 and 6, are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.
6. Based on Cabrera'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 has engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5).
7. She 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. Pursuant to TEX. OCC. CODE § 53.021(d)(B)(i), the commissioner may consider Cabrera to have been convicted of an offense because she has not completed the period of supervision.
9. 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 offense of theft of property to be of such a serious nature that it is of prime importance when determining fitness for licensure because the offense is:
 - i. An offense for which fraud, dishonesty, or deceit is an essential element. 28 TEX. ADMIN. CODE §1.502(e)(1).
10. Cabrera 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 Marie Yvonne Cabrera's application for a county mutual agent license.



David C. Mattax
Commissioner of Insurance

Affidavit

State of Texas §
County of Travis §

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

“My name is Ginger Yocom and I am employed by the Texas Department of Insurance. I am of sound mind, capable of making this affidavit, and have personal knowledge of these facts which are true and correct.

I have reviewed TDI’s records concerning Marie Yvonne Cabrera. I have confirmed that:

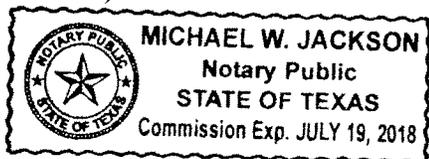
- a. The last mailing address provided to the department by Marie Yvonne Cabrera in writing was 2003 47th Street, Lubbock, Texas 79412.
- b. The file maintained by the Enforcement Section of the Compliance Division contains a notice of hearing dated March 24, 2016, filed with the State Office of Administrative Hearings.
- c. Certified letters, return receipts requested, and first class mailings containing a notice of hearing were sent to Cabrera’s last known address and one additional address at 3030 North Stemmons Fwy., No B, Dallas, Texas 75247.

Copies of the first class and certified mail logs maintained by the Enforcement Section are attached as Exhibit A and Exhibit B.”

Gingerlycom
Affiant

SWORN TO AND SUBSCRIBED before me on 27 April 2016.

(NOTARY STAMP)



Notary without Bond
12421235-1

[Signature]
Signature of Notary Public

