

No. 2016- 4872

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

Date: DEC 29 2016

Subject Considered:

ROGER CLAYTON FOUNTAIN
3305 Pinion Drive
Plano, Texas 75023

DEFAULT ORDER
SOAH DOCKET NO. 454-17-0828.C
TDI ENFORCEMENT FILE NO. 7444

General remarks and official action taken:

The commissioner of insurance considers the application for a general lines agent license with a property and casualty qualification for Roger Clayton Fountain.

FINDINGS OF FACT

The commissioner makes the following findings of fact:

1. Roger Clayton Fountain submitted an application for a general lines agent license with a property and casualty qualification to the department on January 6, 2014.
2. The department proposed to deny Fountain's application on August 5, 2014, based on his criminal history. He appealed that decision and made a written request for a hearing.
3. On October 25, 2016, the department sent a notice of hearing to Fountain's last known address provided in writing to the department, 3305 Pinion Drive, Plano, Texas 75023.
4. Fountain 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 May 8, 1996, Fountain was arrested by the Ray Brook State Police Department of New York. Fountain was charged with the offense of menacing in the third degree, a class B misdemeanor, and sentenced to 60 days confinement.
6. On June 12, 1996, Fountain was arrested by the Saranac Lake Police Department of New York. Fountain was charged with the offense of criminal mischief in the fourth degree, a class B misdemeanor, and sentenced to 31 days confinement to be served concurrently with the menacing sentence.

7. On June 25, 1997, Fountain was convicted of the offense of sexual abuse in the second degree, a class A misdemeanor, and ordered to serve three years community supervision, in the Town of St. Armand Court of Essex County, New York.
8. On April 7, 2014, Fountain was convicted of the offense of stalking, a third degree felony, and ordered to serve six years community supervision, in the 296th District Court of Collin County, Texas.
9. On October 8, 2015, Fountain was convicted of the offense of tampering with a witness, a state jail felony, and ordered to serve two years community supervision, in the 367th District Court of Denton County, Texas.
10. On June 24, 2016, Fountain was convicted of the offense of deceptive trade practice, a class A misdemeanor, and sentenced to 65 days confinement in the County Court at Law No. 6 of Collin County, Texas.
11. On September 16, 2016, Fountain was convicted of the offense of deceptive business practice, a class A misdemeanor, and ordered to serve one year community supervision in the County Court at Law No. 6 of Collin County, Texas.

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, 4005.101, 4005.102 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. 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, Fountain's last known address is presumed to be 3305 Pinion Drive, Plano, Texas 75023.
4. The department sent a notice of hearing to Fountain'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 department's allegations in the notice of hearing, set out herein as findings of fact nos. 1-2 and 5-11, are deemed admitted as true pursuant to 28 TEX. ADMIN. CODE § 1.89.
6. Based on Fountain's prior criminal history, he has committed acts for which a license may be denied under TEX. INS. CODE, Chapter 4005, Subchapter C, because he has engaged in fraudulent or dishonest acts or practices, as contemplated by TEX. INS. CODE § 4005.101(b)(5).

7. Fountain has been convicted of a felony as contemplated by TEX. INS. CODE § 4005.101(b)(8).
8. Fountain committed an offense for which fraud, dishonesty, or deceit is an essential element, as contemplated in 28 TEX. ADMIN. CODE § 1.502(e)(1) and TEX. OCC. CODE §§ 53.021-53.023.
9. Fountain committed 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).
10. Department guidelines, 28 TEX. ADMIN. CODE § 1.502(c) – (e), emphasize that the department:
 - 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;
 - c. considers any offense for which fraud, dishonesty, or deceit is an essential element of prime importance when determining fitness for licensure. 28 TEX. ADMIN. CODE § 1.502(e)(1);
 - d. considers the offense of stalking to be of such a serious nature that it is of prime importance when determining fitness for licensure. 28 TEX. ADMIN. CODE § 1.502(e)(4)(J);
 - e. considers the offense of tampering with a witness to be of such a serious nature that it is of prime importance when determining fitness for licensure. 28 TEX. ADMIN. CODE § 1.502(e)(1); and
 - f. considers the offenses of deceptive trade practices and deceptive business practices to be of such a serious nature that they are of prime importance when determining fitness for licensure. 28 TEX. ADMIN. CODE § 1.502(e)(1).
11. Fountain has been convicted of a felony involving dishonesty or breach of trust, as specified in 18 U.S.C. § 1033 and requiring written consent from the commissioner of insurance to engage or participate in the business of insurance.

The commissioner of insurance orders that Roger Clayton Fountain's application for a general lines agent license with a property and casualty qualification is denied.



David C. Mattax
Commissioner of Insurance

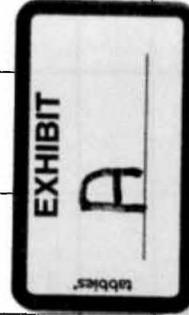
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 Judy Lopez

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|------------------------------|---|---|--|-----------------|----------------------------|---------------|-------------------|---------|----------|--------|--------|--------|----------|--------|
| Tigue | Roger Clayton Fountain 3305 Pinion Drive Plano, Texas 75023 | | | | | | | | | | | | | |
| | Seldon-McKay | Laura Lynn Cisneros 4554 Santa Ines Lane Laredo, TX 78046 | | | | | | | | | | | | |
| | | Dehoyos | Engles Bounce Houses Attn: Geoffrey Wade Engles 317 SW Wilshire Blvd Ste 103 Burleson, TX 76028 | | | | | | | | | | | |
| Dehoyos | | | Engles Bounce Houses Attn: Geoffrey Wade Engles 1012 Pheasant Run Crowley, TX 76036 | | | | | | | | | | | |

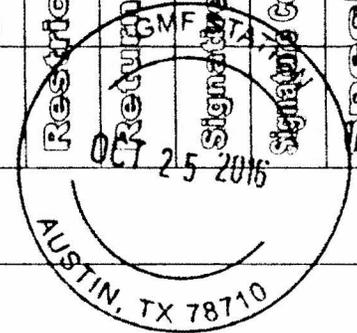


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