No. **2020-6366**

Official Order
of the
Texas Commissioner of Insurance

Date: 06/16/2020

Subject Considered:

Trevor Schulze
720 16th St
Denver, Colorado 80202

Consent Order
TDI Enforcement File No. 23701

General remarks and official action taken:

This consent order is with Trevor Schulze (Schulze). The Texas Department of Insurance (department) has reviewed Schulze's application for an adjuster designated home state (DHS) Texas license and his rehabilitative evidence and determined that the license should be granted subject to a one-year probated suspension and reporting as detailed in this order.

Waiver

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

Findings of Fact

License Application

1. On September 24, 2019, Schulze applied for an adjuster DHS Texas license with the department.

Criminal History

2. On January 15, 2014, Schulze was convicted of the felony offense of kidnapping 2-seize/carry victim, in cause no. D0352013CR000986 in the District Court of Larimer County, California. The court sentenced Schulze to 30 days in jail and three years of probation.

3. The charge and conviction were the result of a domestic dispute between Schulze and his wife where he physically picked her up and carried her back to their apartment.

4. Schulze successfully completed his probation early on December 10, 2016.

Evidence of Rehabilitation

5. Schulze cooperated extensively and timely with the department in its investigation of his criminal background. Schulze provided evidence of his rehabilitation to support his fitness for licensure.

6. In accordance with the requirements of TEX. OCC. CODE § 53.025, the department has developed guidelines relating to the matters which the department will consider in determining whether to grant, deny, suspend, or revoke any license or authorization under its jurisdiction, as described in 28 TEX. ADMIN. CODE §§ 1.502(e)-1.502(k).

7. 28 TEX. ADMIN. CODE § 1.502(h) specifically tracks the rehabilitative factors listed in TEX. OCC. CODE §§ 53.022 and 53.023 that the department must consider in determining whether those factors outweigh the serious nature of the applicant's criminal history.

8. TEX. OCC. CODE § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1) describe the initial factors the department must consider in determining whether issuance of the license is appropriate:

   FACTORS IN DETERMINING WHETHER CONVICTION RELATES TO OCCUPATION.

   In determining whether a criminal conviction directly relates to an occupation, the licensing authority shall consider:

(1) the nature and seriousness of the crime;
(2) the relationship of the crime to the purposes for requiring a license to engage in the licensed occupation;
(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and
(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.

9. Considering the factors outlined in TEX. OCC. CODE § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1), Schulze's conviction for kidnapping 2-seize/carry victim does not directly relate to the occupation of an adjuster.

10. TEX. OCC. CODE § 53.023 and 28 TEX. ADMIN. CODE § 1.502(h)(2) describe additional factors the department must consider in determining whether issuance of the license is appropriate of a person who has committed a crime:

ADDITIONAL FACTORS FOR LICENSING AUTHORITY TO CONSIDER

(a) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority shall consider, in addition to the factors listed in Section 53.022:

(1) the extent and nature of the person's past criminal activity;
(2) the age of the person when the crime was committed;
(3) the amount of time that has elapsed since the person's last criminal activity;
(4) the conduct and work activity of the person before and after the criminal activity;
(5) evidence of the person's rehabilitation and rehabilitative effort while incarcerated or after release; and
(6) other evidence of the person's fitness, including letters of recommendation from:

(A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
(B) the sheriff or chief of police in the community where the person resides; and
(C) any other person in contact with the convicted person.

(b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required by Subsection (a)(6).

(c) In addition to fulfilling the requirements of Subsection (b), the applicant shall furnish proof in the form required by the licensing authority that the applicant has:

(1) maintained a record of steady employment;
(2) supported the applicant's dependents;
(3) maintained a record of good conduct, and
(4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.

11. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), Schulze has attributed his conduct leading up to his conviction as drug and alcohol related which lead to an argument with his wife. During the argument, Schulze's wife went into the neighbor's apartment, Schulze followed her, and carried her back to their apartment. Schulze has accepted responsibility and expressed remorse and guilt for his criminal conduct.

12. In consideration of TEX. OCC. CODE § 53.023(a)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(B), Schulze was 23 years old at the time of his criminal offense.

13. In consideration of TEX. OCC. CODE § 53.023(a)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(C), Schulze's conviction was in 2014 and he was released from probation in 2016.

14. In consideration of TEX. OCC. CODE §§ 53.023(a)(4)-(5) and 53.023(c)(1) and 28 TEX. ADMIN. CODE §§ 1.502(h)(2)(D) and 1.502(h)(2)(G)(i), Schulze has provided the department with evidence demonstrating his commitment to rehabilitation. While on probation, Schulze attended therapy and counseling sessions for domestic violence. Schulze provided the department with the letter he wrote to his wife where he apologized and took full responsibility for his conduct that led to his criminal offense. After the termination of Schulze's probation, he continues to attend counseling sessions. Schulze has been sober since 2013 and is active in his church. Additionally, Schulze has provided the department with a detailed resume showing that he has been steadily employed. Schulze is currently an adjuster at Pivot Adjusters in Colorado. Schulze has been employed at Pivot Adjusters since August of 2019 and his employer fully supports his licensure.

15. In consideration of TEX. OCC. CODE § 53.023(a)(6) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(F), the department received several letters of recommendation:

    a. The president of Pivot Adjusters, Schulze's current place of employment, confirms knowledge of Schulze's criminal history and stated that Schulze has excelled in his position, is very skilled, and professional.

    b. Schultze's former employer, confirms knowledge of Schulze's criminal history and states that Schulze is dedicated to improving himself, is a man of character, and exceeded expectations in his job position.

    c. A friend and fellow church member who has known Schulze for six years confirms knowledge of Schulze's criminal history. The letter states that Schulze has matured into a reliable man and that Schulze is honest, hard-working, and supportive of the youth missionaries at his church.

    d. The lead production director at Schulze's church states that Schulze is a joy to be around, has changed and matured over the years, is passionate, and a hard worker.

16. In consideration of TEX. OCC. CODE § 53.023(c)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iv), Schulze has provided the department with evidence showing he has paid all court costs, fines, and restitution in full.

17. The factors described in 28 TEX. ADMIN. CODE § 1.502(h) and TEX. OCC. CODE §§ 53.022 and 53.023 outweigh the serious nature of Schulze's conviction.

18. Due to Schulze's criminal background, the department needs the opportunity to monitor his insurance activities to ensure he demonstrates the ability, capacity, and fitness required to perform and discharge the responsibilities of a licensed insurance agent.

Conclusions of Law

1. The commissioner of insurance has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 4005.101, 4005.102, and 4101.051; 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 of insurance 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. Schulze has knowingly and voluntarily waived all procedural rights to which he may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.

4. Schulze has committed an act for which the department may deny a license under TEX. INS. CODE §§ 4001.105 and 4005.101.

5. Pursuant to 28 TEX. ADMIN. CODE § 1.502(f), the factors in TEX. OCC. CODE §§ 53.022-53.023 outweigh the serious nature of Schulze's criminal conviction.

Order

It is ordered that an adjuster designated home state Texas license is granted to Trevor Schulze. It is further ordered that the adjuster designated home state Texas license is suspended for one year. The suspension shall be probated, and the terms and conditions stated in this order will apply.

If during the probation period imposed by this order, the department issues any additional licenses or authorizations to Schulze, 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, Schulze must provide written notice of his criminal record to any company, agency, employer, sponsor, or other entity on behalf of which he performs the acts of an adjuster. Schulze must provide the department with a copy of the notification within 30 days of appointment, employment, or sponsorship by emailing it to the Texas Department of Insurance at EnforcementReports@tdi.texas.gov.

Beginning from the date of this order and continuing through the probation period, Schulze must file a written report, on or before the 15th date of each month on a quarterly basis for the months of March, June, September, and December with the Texas Department of Insurance by emailing it to EnforcementReports@tdi.texas.gov. The reports must include the following information:

a. Schulze's current mailing address and telephone number;
b. the name, mailing address, and telephone number of Schulze's employer, and if Schulze is self-employed, a statement that he is self-employed and the name, mailing address, and telephone number of his business;
c. the name and address of any insurer or adjusting firm which has employed or contracted with Schulze as an adjuster;
d. the name and address of any insurer or adjusting firm which he has terminated from; and
e. a copy of any and all contracts Schulze has entered into with an insurer, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.

Schulze must notify the department immediately of the following by emailing EnforcementReports@tdi.texas.gov.

a. 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;
b. any state or regulatory actions taken against him including formal and informal actions;

c. any change in his employment or his residence; and
d. any complaint made against Schulze concerning his performance as an agent, as well as a written explanation detailing the steps taken to resolve it.

Kent C. Sullivan
Commissioner of Insurance

By: DocuSigned by: Doug Slape C77A87C8C21B435...

Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

Recommended and reviewed by:

Leah Gillum, Deputy Commissioner
Enforcement Division

Sarah White, Staff Attorney
Enforcement Division

Affidavit

STATE OF Colorado §
§
CITY & COUNTY OF Denver §

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

"My name is Trevor Schulze. 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."

Affiant

SWORN TO AND SUBSCRIBED before me on this 11th day of May, 2020

Signature of Notary Public

MARC H. SCHTUL
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20084039381
MY COMMISSION EXPIRES JAN 11, 2021

(NOTARY STAMP)