

No. 2024-8775

**Official Order
of the
Texas Commissioner of Insurance**

Date: 8/13/2024

Subject Considered:

Texas Department of Insurance v.
Haylee Vann

SOAH Docket No. 454-24-04962.C

General Remarks and Official Action Taken:

The subject of this order is Haylee Vann's application for a general lines agent license with a property and casualty qualification. This order denies Ms. Vann's application.

Background

After proper notice was given, the above-styled case was heard by an administrative law judge for the State Office of Administrative Hearings. The administrative law judge made and filed a proposal for decision containing a recommendation that the Texas Department of Insurance (TDI) deny Ms. Vann's application. A copy of the proposal for decision is attached as Exhibit A.

TDI Enforcement staff filed exceptions to the administrative law judge's proposal for decision. Ms. Vann did not reply to TDI Enforcement staff's exceptions.

In response to the exceptions, the administrative law judge recommended revising the proposal for decision. A copy of the administrative law judge's response to the exceptions is attached as Exhibit B.

Findings of Fact

The findings of fact contained in Exhibit A are adopted and incorporated by reference into this order.

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Conclusions of Law

The conclusions of law contained in Exhibit A as revised consistent with Exhibit B are adopted and incorporated by reference into this order.

Order

It is ordered that Haylee Vann's application for a general lines agent license with a property and casualty qualification is denied.

Signed by:

FC5D7EDDFFB4F8... _____
Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

Signed by:

5DAC5618BBC74D4... _____
Jessica Barta, General Counsel

Signed by:

27ADF3DA5BAF4B7... _____
Justin Beam, Chief Clerk

**BEFORE THE STATE OFFICE OF
ADMINISTRATIVE HEARINGS**

**TEXAS DEPARTMENT OF INSURANCE,
PETITIONER
v.
HAYLEE VANN,
RESPONDENT**

PROPOSAL FOR DECISION

The Texas Department of Insurance (Department or Staff) seeks to deny the application of Haylee Vann for a general lines agent license with a property and casualty qualification (license) based upon Ms. Vann's criminal history. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends that the Department deny Ms. Vann's license application.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

Notice and jurisdiction were not disputed by either party and are set out below in the Findings of Fact and Conclusions of Law. On June 23, 2023, Ms. Vann filed the license application with the Department and on July 25, 2023, the

Department proposed to deny the application. Ms. Vann timely appealed the Department's proposed denial, and this matter was referred to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.

On April 11, 2024, SOAH ALJ Steve Rivas convened a hearing on the merits via Zoom videoconference. Attorney Casey Dick represented Staff. Ms. Vann appeared and represented herself. On April 30, 2024, the record closed upon receipt of the hearing transcript and exhibits that were admitted at the hearing.

II. APPLICABLE LAW

The Department may deny a license application if the Department determines the applicant, based on prior criminal history, has engaged in fraudulent or dishonest acts or practices.¹

Additionally, the Department may refuse to issue an original license or authorization and may revoke, suspend, or refuse to renew a license or authorization if the Department determines that the applicant has been convicted of or placed on deferred adjudication for an offense that directly relates to the duties and responsibilities of the licensed occupation.²

¹ Tex. Ins. Code § 4005.101(b)(5).

² 28 Tex. Admin. Code § 1.502(d) and (f).

Those crimes that the Department considers to be of such serious nature that they are directly related to the duties and responsibilities of the licensed occupation or are of prime importance in determining fitness for licensure or authorization include any offense for which fraud, dishonesty, or deceit is an essential element.³

The Department will consider the factors specified in Texas Occupations Code sections 53.022 and 53.023 in determining whether to issue an original license or authorization or revoke, suspend, or refuse to renew a license or authorization.⁴

Those factors include:

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 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.⁵

The Department must also consider the following factors in determining the fitness to perform the duties and responsibilities of the licensed occupation:

³ 28 Tex. Admin. Code § 1.502(f)(1).

⁴ 28 Tex. Admin. Code §§ 1.502(d) and (e).

⁵ Tex. Occ. Code §§ 53.021, 53.022, and 53.023.

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 or rehabilitative effort while incarcerated or after release;
6. evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
7. other evidence of the person's fitness, including letters of recommendation.⁶

Staff has the burden of proving that Ms. Vann's application should be denied; and Ms. Vann has the burden to show she is fit for licensure despite the criminal history.⁷ The standard of proof in this case is by a preponderance of the evidence.⁸

⁶ Tex. Occ. Code §§ 53.021, and 53.022, and 53.023.

⁷ 1 Tex. Admin. Code § 155.427.

⁸ See *Granek v. Tex. St. Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

III. EVIDENCE

Staff offered eight exhibits and called one witness.⁹ Ms. Vann offered three exhibits,¹⁰ but she did not call any witnesses, nor did she offer any testimony.

A. BACKGROUND FACTS

On December 1, 2021, Ms. Vann pleaded guilty to theft of property between \$2,500-\$30,000, a state jail felony in Cause No. 33628CR in the 196th Judicial District Court of Hunt County, Texas, for an offense that occurred on July 13, 2020. According to court records, Ms. Vann unlawfully appropriated \$4,753.01 from Michael Flood for Austin Finance of Greenville, Texas.¹¹

The court deferred adjudication of the offense and placed Ms. Vann on community supervision for five years. She was further ordered to pay \$4,752.00 restitution, a \$1,000 fine, attorneys fees, court costs, probation fees, and ordered to complete 200 hours of community service.¹² On September 9, 2023, the court granted Ms. Vann early discharge of community supervision.¹³

⁹ Staff Exs. 1-8.

¹⁰ Ms. Vann Exs. 1-3.

¹¹ Staff Ex. 4.

¹² *Id.*

¹³ Ms. Vann Ex. 1, Order Granting Early Discharge from Deferred Community Supervision (Probation).

B. TENIKA YOUNG’S TESTIMONY

Tenika Young is the Department’s manager of Administrative Review within the Department’s Agent and Adjuster Licensing Division. She reviews nonstandard license applications and makes recommendations to deny or issue a license. The license Ms. Vann applied for requires an applicant to be trustworthy and act in a fiduciary capacity, according to Ms. Young. Further, Ms. Young testified that the Department considers it to be very important that a licensed individual is honest, trustworthy, and reliable due to the complicated nature of the business of insurance.

Ms. Young testified that she reviewed Ms. Vann’s application¹⁴ and her criminal record. She noted that Ms. Vann was 27 years old¹⁵ when she committed theft of \$4,752 from former employer Michael Flood, owner of Austin Finance Company—where she was employed at the time of the theft.

Ms. Young testified that based on a written statement provided by Ms. Vann,¹⁶ she understood that Ms. Vann did not take any money from the office, but instead took “extra money that was laying in the office”¹⁷ and applied it to past due loans. Regardless, Ms. Young testified, Ms. Vann was not entitled to use the

¹⁴ Staff Ex. 3 at 70-73.

¹⁵ Tr. At page 29.

¹⁶ Staff Ex. 6. In an Explanation of Criminal Record, Ms. Vann wrote that when a client made a payment on a loan but did not refinance that loan, she would use that payment to refinance past due loans of other clients to prevent past due loans from being written off by the company. She noted that this practice led to the Austin location becoming the top performing office of the company’s 15 locations in Texas.

¹⁷ Tr at page 23.

company's funds as she wished, and that she owed a fiduciary duty to the company and its clients, which she violated. Ms. Young explained that Ms. Vann breached her fiduciary duty with the company and its clients by using funds from paying customers to refinance loans of other clients, without consent of the clients who believed that they were paying off their own loans.

Ms. Young testified that pursuant to the Department's rule at 28 Texas Administrative Code section 1.502(f), in determining an individual's fitness for licensure, the Department considers certain crimes, like theft, to be of a more serious nature, and that pursuant to the Department's rule at 28 Texas Administrative Code section 1.502(f)(1), any offense for which fraud, dishonesty or deceit is an essential element is considered a serious offense. She further stated that that Ms. Vann's theft offense also fell within the Department's rule at 28 Texas Administrative Code section 1.502(f)(3), a crime of moral turpitude.

Ms. Young testified that an individual with an insurance license has increased opportunities to commit a financial crime because the individual has access to money received from applicants, from insured individuals, and from insurance carriers and intermediary agencies. She further noted that Ms. Vann's positive letters of recommendation submitted with her application are favorable to Ms. Vann. However, the seriousness of her offense outweighs the evidence in her favor in this matter, according to Ms. Young. On that basis, Ms. Young concluded, the Department's decision to deny licensure based on Ms. Vann's criminal history was appropriate.

C. MS. VANN’S EVIDENCE

Ms. Vann did not testify, nor did she call any witnesses to testify on her behalf. However, she first pointed out that in her written statement, she wrote that “I know I made the mistake, and I accepted full responsibility for it.”¹⁸ She further argued that she is fit for licensure on the basis that despite the court sentencing her to five years of community supervision on December 1, 2021, she was granted early discharge on September 9, 2023.¹⁹ Ms. Vann pointed to other evidence that reflects she completed her court-ordered 200 hours of community service²⁰ and that she paid all fines and restitution ordered by the court.²¹

According to Ms. Vann’s resume, she has been employed from 2013 to the present day in a number of positions including: floor manager at Southern Junction in Rockwall, Texas, from 2013 to 2018; assistant manager at First Convenience Bank in Dallas, Texas, from 2015 to 2017; account representative at Car-Mart in Greenville, Texas, from 2018 to 2019 and again from 2021 to 2022; payroll clerk at Creative Solutions Healthcare in Greenville, Texas, in 2020; account representative at Rent-A-Center in Greenville, Texas, from 2020 to 2021; customer service representative at Continuum Global Solutions (Remote) in 2021; Substitute Teacher (K-12) in Greenville, Texas, from 2020 to 2022; personal

¹⁸ Staff Ex. 6.

¹⁹ Ms. Vann Ex. 1, Order Granting Early Discharge from Deferred Community Supervision (Probation). *See* also Ms. Vann Ex. 3, a letter dated prior to discharge on August 9, 2023, from Hunt County Community Supervision and Corrections Department, which reflects Ms. Vann was in “compliance with all her conditions of probation.”

²⁰ Staff ex. 3 at 41-43.

²¹ Staff ex. 3 at 44-45.

shopper at Super 1 Foods in Greenville, Texas, from 2022 to 2023; and presently at Town & Country Insurance in Greenville, Texas, since 2023, where she solicits insurance sales to potential customers and maintains sales statistics on the company's web page.²²

Ms. Vann further contended that the following letters of recommendation demonstrate she is eligible to hold a license:²³

- Brandon Schwarte, Store Director at Super 1 Foods in Greenville, Texas, wrote in a letter dated June 6, 2023, that Ms. Vann was an employee with outstanding customer service skills and did an excellent job working with customers.²⁴
- Amanda Gammon, Office Manager of Town & Country Insurance in Greenville, Texas, wrote in a letter dated June 27, 2023, that Ms. Vann was open and honest about her theft charge but has been a great asset to the company, is very dependable, and always ready to give a helping hand when asked of her.²⁵
- Kimberly Patterson, an acquaintance who has known Ms. Vann since she was a teenager, wrote in a letter dated September 6, 2023, that she is aware of the theft offense, but that Ms. Vann has turned her life around and has become the very best mother to her child.²⁶

²² Staff Ex. 3 at 46-47.

²³ Ms. Vann submitted the letters of recommendation to the Department during the application process.

²⁴ Staff Ex. 6 at 114.

²⁵ Staff Ex. 6 at 115.

²⁶ Staff Ex. 6 at 116.

- Amy McCool, an acquaintance who has also known Ms. Vann since she was a teenager, wrote in a letter dated “4th September 20XX[sic],” that Ms. Vann’s theft offense does not define who Ms. Vann is as a person. Ms. McCool also wrote that Ms. Vann is motivated, honest, and ethical, and that it would be a shame to allow one lapse in judgment to negatively impact her ability to build a stronger future.²⁷
- Shannon Teichmann, who worked with Ms. Vann at the Salvation Army where Ms. Vann performed community service hours, wrote in a letter dated June 27, 2023, that Ms. Vann is intelligent, personable, dependable, and is comforting and encouraging to those in need.²⁸

IV. ANALYSIS

The Department may deny Ms. Vann’s license application due to her criminal history, which involved fraudulent or dishonest acts or practices. Pursuant to the Department’s rule at 28 Texas Administrative Code section 1.502, the Department will consider the factors listed in Texas Occupations Code sections 53.022 and 53.023, set out above, in determining whether to grant Ms. Vann’s license application.

Ms. Vann’s offense was serious, and a license would offer an opportunity to engage in similar criminal activity. In addition, when she committed the offense, she was 27 years old and was mature enough to make better decisions. Hence, the offense cannot be deemed a youthful indiscretion.

²⁷ Staff Ex. 6 at 117.

²⁸ Staff Ex. 6 at 118.

Evidence of Ms. Vann's work activity before and after the offense was presented and to her credit, she has maintained employment since 2013. However, the number of different employers (10) together with relatively short stints—most lasting two years or less—does not demonstrate steady employment. Other than Ms. Vann's employment at Southern Junction from 2013-2018, her other positions lasted two years or less. Moreover, of all the positions she held since 2013, the only position where she might have handled money was at First Convenience Bank, where she was assistant manager from 2015-2017. As such, most of her prior employers did not require her to handle funds, create a fiduciary relationship, or demonstrate integrity, honesty, and trustworthiness in the same manner as a licensed insurance agent.

Ms. Vann has engaged in no other criminal activity, but only four years have passed since she committed the offense. Moreover, only nine months have passed since Ms. Vann was discharged from community supervision. Although she received an early discharge from community supervision, Ms. Vann has not had an opportunity to maintain a significant record of good conduct. Ms. Vann offered no evidence of any rehabilitation or rehabilitative effort after the offense. Hence, there is no indication that she has successfully rehabilitated herself and will make better decisions moving forward in her career.

Evidence that weighs in favor of Ms. Vann is her compliance with the conditions of community supervision and her letters of recommendation. For example, her early release from community supervision, and evidence that reflects she successfully completed her community service hours and paid all fines and restitution ordered by the court is favorable for Ms. Vann. The letters of

recommendation also display Ms. Vann in a positive light. The letter from Ms. Gammon, who hired Ms. Vann despite knowing of the theft offense was the most persuasive. The letter also reflected that Ms. Vann is a helpful and dependable employee within an insurance office. Conversely, the letters reflecting Ms. Vann's employment at a grocery store and Salvation Army discuss Ms. Vann's nobility but do not provide the ALJ of any understanding of Ms. Vann's work ethic nor do they demonstrate how she would conduct herself as a licensed agent in the business of insurance. Overall, the letters of recommendation, including the letters from acquaintances, are positive, but are not persuasive in demonstrating Ms. Vann possesses measurable integrity and trustworthiness or that she is fully rehabilitated following the theft offense.

Ms. Vann has the burden of proving present fitness to be licensed. She appears to have positive attributes that will serve her moving forward. However, the offense of theft is serious because it involved fraudulent or dishonest acts or practices. Although she was released early from community supervision and has paid all fines and restitution, Ms. Vann's work history is sporadic, and she has only been off court-ordered supervision for less than a year, which prevents her from developing a long record of good conduct. Together with the unpersuasive letters of recommendation and after considering all applicable factors, the ALJ concludes that Ms. Vann's application for a general lines agent license with a property and casualty qualification be denied on the basis that she has not demonstrated fitness to be licensed at this time.

V. FINDINGS OF FACT

1. On June 23, 2023, Haylee Vann filed an application for a general lines property and casualty license (license) with the Texas Department of Insurance (Department or Staff).
2. On July 25, 2023, the Department proposed to deny the application.
3. Ms. Vann timely appealed the Department's proposed denial, and this matter was referred to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.
4. On November 14, 2023, Staff issued a notice of hearing.
5. The notice of hearing contained a statement of the time, place, and nature of the hearing; a statement of the legal authority and jurisdiction under which the hearing was to be held; a reference to the particular sections of the statutes and rules involved; and either a short, plain statement of the factual matters asserted or an attachment that incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
6. On April 11, 2024, SOAH Administrative Law Judge Steve Rivas convened a hearing on the merits via Zoom videoconference. Attorney Casey Dick represented Staff. Ms. Vann appeared and represented herself. The record closed on April 30, 2024, upon receipt of the hearing transcript and exhibits that were admitted at the hearing.
7. On December 1, 2021, Ms. Vann pleaded guilty to theft of property between \$2,500-\$30,000, a state jail felony in Cause No. 33628CR in the 196th Judicial District Court of Hunt County, Texas, for an offense that occurred on July 13, 2020.
8. Ms. Vann unlawfully appropriated \$4,753.01 from Michael Flood for Austin Finance of Greenville, Texas. The court deferred adjudication of the offense and placed Ms. Vann on community supervision for five years.

9. The court ordered Ms. Vann to pay \$4,752.00 restitution, a \$1,000 fine, attorneys fees, court costs, probation fees, and ordered her to complete 200 hours of community service.
10. On September 9, 2023, the court granted early discharge from community supervision.
11. Ms. Vann has no other criminal activity, and she was 27 years old at the time of the offense.
12. It has been four years since Ms. Vann committed theft, and less than a year since she was discharged from community supervision.
13. Ms. Vann has been employed since before and after committing the offense, including employment within the insurance industry.
14. Ms. Vann has paid all fines, restitution, and court costs in full.
15. Ms. Vann has performed 200 hours of court-ordered community service.
16. Ms. Vann's employment history is extensive but lacks consistency.
17. Not enough time has passed since the offense for Ms. Vann to establish a good record of conduct.
18. Ms. Vann has not demonstrated that she has successfully rehabilitated herself from her criminal past.
19. Ms. Vann's mitigating evidence does not outweigh the seriousness of the offense.

VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, .105, 4005.101.
2. SOAH has authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Ins. Code § 4005.104.

3. Ms. Vann received timely and sufficient notice of hearing. Tex. Gov't Code ch. 2001; Tex. Ins. Code § 4005.104(b).
4. The Department may deny a license application if the applicant has engaged in fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(5).
5. In determining whether to grant or deny the application based on the applicant's criminal history, the Department will consider the factors in Texas Occupations Code §§ 53.022 and 53.023. 28 Tex. Admin. Code § 1.502(e).
6. The Department should deny Ms. Vann's application for a license on the basis that she has engaged in fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(5).

Signed June 20, 2024.

ALJ Signature:

A handwritten signature in black ink that reads "Steve Rivas". The signature is written in a cursive, slightly slanted style. Below the signature is a solid horizontal line.

Steve Rivas

Presiding Administrative Law Judge

State Office of Administrative Hearings

Kristofer S. Monson
Chief Administrative Law Judge

July 16, 2024

Casey Dick, TDI Staff Attorney

VIA EFILE TEXAS

Haylee Vann, Respondent
6601 Flamingo Road
Greenville, TX 75402

VIA REGULAR MAIL & EFILE TEXAS

**RE: SOAH Docket Number 454-24-04962.C; TDI Case No. 32684;
Texas Department of Insurance v. Haylee Vann**

Dear Parties:

On June 21, 2024, the undersigned Administrative Law Judge (ALJ) issued a Proposal for Decision (PFD) in this matter and on June 28, 2024, Staff for the Texas Department of Insurance filed exceptions to the PFD. Respondent Haley Vann did not file exceptions nor did she reply to Staff's exceptions. Having reviewed Staff's exceptions, the ALJ recommends the following changes be made to the PFD:

Amended Conclusion of Law No. 5. In determining whether to grant or deny the application based on the applicant's criminal history, the Department will consider the factors in Texas Occupations Code sections 53.022 and 53.023 and 28 Texas Administrative Code section 1.502(e). The department should deny Ms. Vann's license because she may be considered by the department to have been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation. Tex. Occ. Code § 53.021(a) and (d), and 28 Tex. Admin. Code § 1.502(e)(1) and (e)(4)(F).

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Exceptions Letter by ALJ

July 16, 2024

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Signed July 16, 2024

ALJ Signature(s):

A handwritten signature in black ink that reads "Steve Rivas". The signature is written in a cursive, slightly slanted style. Below the signature is a solid horizontal line.

Steve Rivas,

Presiding Administrative Law Judge

CC: Service List