

No. 2023-8192

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

Date: 9/12/2023

Subject Considered:

Texas Department of Insurance v.
Rownisha Tiya Davenport

SOAH Docket No. 454-23-12186.C

General Remarks and Official Action Taken:

The subject of this order is Rownisha Tiya Davenport's application for an adjuster all lines license. This order denies Ms. Davenport'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 deny Ms. Davenport's application. A copy of the proposal for decision is attached as Exhibit A.

Findings of Fact

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

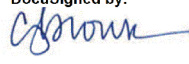
Conclusions of Law

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

COMMISSIONER'S ORDER
TDI v. Rownisha Tiya Davenport
SOAH Docket No. 454-23-12186.C
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Order

It is ordered that Rownisha Tiya Davenport's application for an adjuster all lines license is denied.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:

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Jessica Barta, General Counsel

DocuSigned by:

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Justin Beam, Assistant General Counsel

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

**TEXAS DEPARTMENT OF INSURANCE,
PETITIONER**

v.

**ROWNISHA TIYA DAVENPORT,
RESPONDENT**

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**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

—
**TEXAS DEPARTMENT OF INSURANCE,
PETITIONER**

v.

**ROWNISHA TIYA DAVENPORT,
RESPONDENT**

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Insurance (Department) seeks to deny the application of Rownisha Tiya Davenport for an Adjuster All Lines license based on her criminal history. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends that, at this time, the Department deny Ms. Davenport's license application.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

Notice and jurisdiction were not disputed and are addressed in the Findings of Fact and Conclusions of Law without further discussion here. The hearing was convened by the Zoom videoconferencing platform on May 16, 2023, before ALJ Shelly M. Doggett of the State Office of Administrative Hearings (SOAH). Attorney Latoya Merida represented Staff. Ms. Davenport appeared and represented herself. The hearing concluded on the same day, and the recorded closed on May 31, 2023, when Staff filed the hearing transcript with SOAH.

II. DISCUSSION

A. BACKGROUND

Ms. Davenport filed an application for an Adjuster All Lines license with the Department on September 21, 2021.¹ Based on the answers Ms. Davenport provided to application questions, the Department asked her for more information.² In response, Ms. Davenport provided certified copies of court records, narrative statements, letters of recommendation, and information about her work history.³ On December 3, 2021, the Department proposed to deny her application.⁴ Ms. Davenport timely requested a hearing before SOAH to contest the denial.⁵

¹ Staff Ex. 5 at 18.

² Staff Ex. 5 at 20, 60-61, 63-66, 67-68, 71-72.

³ Staff Ex. 5 at 26-54, 57, 59, 61-62, 65-66, 69-79, 82-85.

⁴ Staff Ex. 5 at 24.

⁵ Staff Ex. 5 at 25, 55.

B. APPLICABLE LAW

The Department considers it very important that license holders and applicants are honest, trustworthy, and reliable.⁶ Consequently, the Department will evaluate an applicant's criminal history and other conduct to determine whether the applicant possesses those qualities. The Department may deny a license application if the Department determines that, among other grounds, the applicant has been convicted of an offense directly related to the duties and responsibilities of the licensed occupation or has engaged in fraudulent or dishonest acts or practices.⁷

For applicants with criminal convictions, the Department considers the factors specified in Texas Occupations Code sections 53.022 and .023 in determining whether to grant a license to the applicant.⁸ Under its rules, the Department is to deny a license application unless it finds these factors outweigh the serious nature of the criminal offense when viewed in light of the occupation being licensed.⁹

Texas Occupations Code section 53.022 sets forth factors the Department must consider when determining whether a criminal conviction directly relates to the duties and responsibilities of the licensed occupation, including:

⁶ 28 Tex. Admin. Code § 1.502(c).

⁷ Tex. Ins. Code § 4005.101(b)(5); Tex. Occ. Code § 53.021(a)(1).

⁸ 28 Tex. Admin. Code § 1.502(h).

⁹ 28 Tex. Admin. Code § 1.502(f).

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;
4. the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation; and
5. any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.¹⁰

The “directly relates” analysis must also take into account certain “guideline” crimes that the Department “considers to be of such serious nature that they are of prime importance in determining fitness for licensure.”¹¹ These crimes include, among others, “any offense for which fraud, dishonesty, or deceit is an essential element,”¹² “any offense with the essential elements of . . . a felony offense of assault, as described by Penal Code, Chapter 22,”¹³ and “any offense with the essential elements of . . . a burglary offense, as described by Penal Code, Chapter 30.”¹⁴ The Department has determined that the crimes it considers to be of prime importance are also directly related to the occupations it licenses.¹⁵

¹⁰ Tex. Occ. Code § 53.022; *see also* 28 Tex. Admin. Code § 1.502(h)(1).

¹¹ 28 Tex. Admin. Code § 1.502(e); *see* Tex. Occ. Code § 53.025.

¹² 28 Tex. Admin. Code § 1.502(e)(1).

¹³ 28 Tex. Admin. Code § 1.502(e)(3).

¹⁴ 28 Tex. Admin. Code § 1.502(e)(4)(E).

¹⁵ 28 Tex. Admin. Code § 1.502(e); *see also* Tex. Occ. Code § 53.025.

If the Department determines that an offense directly relates to the duties and responsibilities of the licensed occupation, it must then consider the following factors prescribed by Texas Occupations Code section 53.023, which bear upon an applicant's fitness for licensure despite criminal history, in making its ultimate licensing determination:

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.¹⁶

Respondent has the responsibility, to the extent possible, to obtain and provide to the Department the applicant's evidence of fitness discussed above.¹⁷ Additionally, an applicant must furnish proof to the Department that the applicant has: 1) maintained a record of steady employment; 2) supported the applicant's dependents, where applicable; 3) otherwise maintained a record of good conduct;

¹⁶ Tex. Occ. Code § 53.023; *see also* 28 Tex. Admin. Code § 1.502(h)(2).

¹⁷ Tex. Occ. Code § 53.023(b); Tex. Admin. Code § 1.502(h)(3).

and 4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.¹⁸

Staff has the burden of proving its grounds for denying Ms. Davenport's license application, while Ms. Davenport has the burden to prove her fitness to be licensed despite her criminal history or fraudulent or dishonest conduct.¹⁹ The standard of proof is by a preponderance of the evidence.²⁰

III. EVIDENCE

At the hearing, Staff offered Exhibits 1-6, which were admitted into evidence without objection. In addition, Staff asked that the ALJ take judicial notice of Exhibit A, which contained excerpts from relevant statute and regulations, which the ALJ did upon subsequent review. Staff also presented the testimony of Lewis Weldon Wright, IV, the Department's administrative review liaison. Ms. Davenport testified on her own behalf and called Sean Self, Tofanya Tate, and Shanara Williams to testify. Ms. Davenport did not offer any exhibits.

A. MS. DAVENPORT'S CRIMINAL HISTORY

Although the evidence suggests Ms. Davenport may disagree with some of the underlying allegations, Staff presented evidence that she has the following criminal history, which Ms. Davenport did not dispute:

¹⁸ 28 Tex. Admin. Code § 1.502(h)(2)(G).

¹⁹ 1 Tex. Admin. Code § 155.427.

²⁰ *Granek v. Texas St. Bd. of Med. Examin'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

- a. On September 12, 2001, Ms. Davenport pleaded nolo contendere to one count of misdemeanor burglary²¹ and one count of misdemeanor forgery²² in Cause No. 1WL02635 in the Superior Court of California in Los Angeles County. She was convicted and sentenced to 36 months of probation. The offense occurred on or about July 11, 2001.²³ Ms. Davenport’s forgery conviction was subsequently set aside and vacated in 2009, and the complaint dismissed pursuant to a post-conviction motion to expunge.²⁴
- b. On July 15, 2011, Ms. Davenport was convicted of misdemeanor domestic violence battery²⁵ in Cause No. 08M35242X in the Justice Court of Las Vegas Township in Clark County, Nevada. The offense occurred in October 2008. Ms. Davenport received two days of jail confinement and 48 hours of community supervision, in addition to being required to attend domestic violence counseling.²⁶
- c. On July 25, 2011, Ms. Davenport was charged with criminal contempt of court in Case No. 1IG04107 for an offense occurring on or about

²¹ “Every person who enters any house, room, apartment, tenement, shop, warehouse, store . . . or other building, . . . with intent to commit grand or petit larceny or any felony is guilty of burglary.” Cal. Pen. Code § 459. All references to the California Penal Code refer to the version in effect when Ms. Davenport was convicted of the relevant offense.

²² The Department referred to this charge throughout the hearing as one for “check fraud.” While the relevant Penal Code provision does concern altered bills, notes or checks, the statute indicates that the violation is one for forgery. *See* Cal. Pen. Code § 476 (“Every person who makes, passes, utters, or publishes, with the intent to defraud any other person, or who, with the like intent, attempts to pass, utter, or publish, or who has in his or her possession, with like intent to utter, pass, or publish, any fictitious or altered bill, note or check, purporting to be the bill, note or check, or other instrument in writing for the payment of money or property of any real or fictitious financial institution . . . is guilty of forgery.”).

²³ Staff Ex. 5 at 26-28.

²⁴ Staff did not address the expungement of Ms. Davenport’s forgery conviction at the hearing, but the court records indicate the conviction was set aside and vacated, a plea of not guilty was entered, and the complaint regarding that count was dismissed pursuant to California Penal Code section 1203.4. Staff Ex. 5 at 31.

²⁵ Nev. Rev. Stat. § 200.485 (2009 ver., since amended). All references to the Nevada Revised Statutes refer to the versions in effect when Ms. Davenport was convicted of the offense. At that time, domestic violence battery was defined as committing battery, which is “any willful and unlawful use of force or violence upon the person of another,” Nev. Rev. Stat. § 200.481, “against or upon . . . any other person with whom the person has had or is having a dating relationship . . .,” Nev. Rev. Stat. § 33.018. *See* Nev. Rev. Stat. § 200.485 (citing section 200.481’s definition of battery and section 33.018’s definition of domestic violence).

²⁶ Staff Ex. 5 at 42.

July 22, 2011, in the Superior Court of California in Los Angeles County. On August 22, 2011, the court dismissed the charge.²⁷

- d. On August 12, 2013, Ms. Davenport pleaded guilty to the felony offense of welfare and insurance fraud²⁸ in Case No. BA411046 in the Superior Court of California in Los Angeles County. She was convicted and sentenced to five years of probation, 350 hours of community service, and restitution in the amount of \$24,031.72 to the Los Angeles County Department of Social Services (Social Services). The offense occurred on or about March 1, 2009.²⁹ On August 12, 2014, Ms. Davenport's probation was revoked, and a bench warrant in the amount of \$50,000 was subsequently issued.³⁰ On May 5, 2020, her probation was reinstated with the same terms and conditions, with the probationary period extended to April 6, 2021.³¹ On April 6, 2021, a civil judgment was entered in favor of Social Services against Ms. Davenport in the amount of \$22,257.14.³² On August 24, 2021, the Superior Court of California ordered that Ms. Davenport's felony welfare and insurance fraud offense be reduced to a misdemeanor.³³

²⁷ Staff Ex. 5 at 33-34. Staff did not allege during the proceeding that this charge resulted in a conviction or that it should be considered for purposes of licensure. Therefore, the ALJ does not further address and does not consider this charge.

²⁸ Cal. Welf. & Inst. Code § 10980(c) (describing a violation “[w]henver any person has, willfully and knowingly, with the intent to deceive, by means of false statement or representation, or by failing to disclose a material fact, or by impersonation or other fraudulent device, obtained or retained aid under the provisions of this division for himself or herself or for a child not in fact entitled thereto . . .”). References to the California Welfare and Institutions Code refer to the version in effect when Ms. Davenport was convicted of the offense.

²⁹ Staff Ex. 5 at 35-37.

³⁰ Staff Ex. 5 at 38.

³¹ Staff Ex. 5 at 38-39.

³² Staff Ex. 5 at 39.

³³ Staff Ex. 5 at 41.

B. TESTIMONY OF LEWIS WELDON WRIGHT, IV ON BEHALF OF THE DEPARTMENT

Mr. Wright testified that has worked for the Department for 15 years and currently serves in the Department’s Agent and Adjuster Licensing Office as the Administrative Review Liaison to the Enforcement Division.³⁴ He acts as the primary contact between the Department’s legal division and the Agent and Adjuster Licensing Office.³⁵ Before working at the Department, Mr. Wright worked in the insurance industry as a claims manager, underwriter, and licensed insurance agent.³⁶

Mr. Wright testified that the Department receives approximately 190,000 licensing applications each year.³⁷ Each application is reviewed for completeness to ensure all responses have been provided, to confirm that the associated fees have been provided, and for background information so that an initial evaluation can be conducted.³⁸ An application may be referred to the Department’s administrative review section if there is a concern with the application, which could stem from the applicant’s responses to the application questions or the results of the applicant’s background check.³⁹

³⁴ Tr. at 26.

³⁵ Tr. at 26.

³⁶ Tr. at 27-28.

³⁷ Tr. at 28.

³⁸ Tr. at 28-29.

³⁹ Tr. at 29.

If an application is referred to administrative review, Mr. Wright explained that Department staff will reach out to the applicant and identify the concern in an attempt to gather more information and documents from the applicant regarding the issue.⁴⁰ Once the administrative review is complete, staff prepares a memorandum for management giving a recommendation as to whether the license should be granted.⁴¹ Mr. Wright testified that each individual application is different and that the circumstances are considered on a case-by-case basis.⁴²

Mr. Wright indicated that the Department has a strenuous application review process because consumers need protection due to the complex nature of insurance and because there is much room within the industry for fraud and misconduct.⁴³ He testified that consumers can be harmed if there are any issues with that insurance transaction including loss of assets and loss of financial compensation if, for example, a consumer does not have an accurate understanding of what they have purchased, or their premiums were not allocated correctly.⁴⁴ According to Mr. Wright, an insurance license conveys that the Department has deemed the license holder trustworthy, honest, reliable, and transparent in their dealings with Texas consumers.⁴⁵ He stated that the Department's prime mission is to protect Texas

⁴⁰ Tr. at 29-30.

⁴¹ Tr. at 30.

⁴² Tr. at 31.

⁴³ Tr. at 31-32.

⁴⁴ Tr. at 32-33.

⁴⁵ Tr. at 31.

consumers from misconduct, and it must ensure due diligence to screen applicants to protect the public from misconduct, wrongdoing, and incompetency.⁴⁶

Mr. Wright testified that Ms. Davenport's Adjuster All Lines license application was flagged as one of concern and referred to the management group for review based on Ms. Davenport's responses and background check indicating that she had a criminal history.⁴⁷ The primary duties of an Adjuster All Lines license holder is to represent the insurance carrier in claims settlement, ascertain coverage, ascertain the amount of damage that may exist and communicate that to the carrier, and to act as the carrier's representative during the claims settlement process.⁴⁸ After reviewing Ms. Davenport's criminal history and other materials, the Department proposed to deny Ms. Davenport's application.⁴⁹

Mr. Wright discussed the criminal history detailed above and how it weighed in the Department's licensing recommendation.⁵⁰ He stated that Ms. Davenport was 20 years old when the events underlying the burglary and forgery misdemeanors occurred.⁵¹ In addition, he stated that, when asked about the circumstances of those crimes, Ms. Davenport responded that she received a check from a friend, which she

⁴⁶ Tr. at 31.

⁴⁷ Tr. at 33, 34.

⁴⁸ Tr. at 33-34.

⁴⁹ Tr. at 34.

⁵⁰ Tr. at 34-44.

⁵¹ Tr. at 37-38; Staff Ex. 5 at 26-28.

did not know was “bad,” and got in trouble when she attempted to cash it.⁵² According to Mr. Wright, the Department considers the offense regarding the fraudulent check a crime of prime importance when determining fitness for licensure because it is a crime involving deceit or deception under 28 Texas Administrative Code section 1.502(e)(1).⁵³ He stated that passing off a deceptive note in an attempt to receive funds is a serious financial crime against a financial institution, and that the insurance industry is a financial industry.⁵⁴

When asked about the nature and seriousness of the misdemeanor domestic violence battery charge, Mr. Wright stated that the crime was not youthful in nature because Ms. Davenport was 28 years old at the time of the incident.⁵⁵ He also attested that it was serious because the violence reached the point that officials had to come adjudicate the situation.⁵⁶ Mr. Wright testified that the Department considers any offense related to assault—including battery—as a crime of prime importance when determining fitness for licensure.⁵⁷ He noted that Ms. Davenport’s statement regarding this conviction indicated she was involved in an abusive dating relationship that resulted in the domestic violence incident.⁵⁸

⁵² Tr. at 37; *see also* Staff Ex. 5 at 50, 52. Ms. Davenport also stated that she understood “that it was forgery and not burglary.” Staff Ex. 5 at 50; *see also* Tr. at 37.

⁵³ Tr. at 38. *See* 28 Tex. Admin. Code § 1.502(e)(1).

⁵⁴ Tr. at 38-39.

⁵⁵ Tr. at 40,

⁵⁶ Tr. at 40.

⁵⁷ Tr. at 40.

⁵⁸ Tr. at 40; Staff Ex. 5 at 52.

Mr. Wright further indicated that Ms. Davenport was approximately 28 years old in 2009, when the events underlying the welfare and insurance fraud conviction occurred.⁵⁹ He testified that the welfare fraud offense is considered a crime of prime importance when determining the fitness for licensure because the nature and severity of the crime is directly related to the occupation of the insurance license.⁶⁰ Mr. Wright explained that welfare is, essentially, an insurance program that requires claims to be made, an analysis of the claims occur, and swift delivery of owed payments to those in need.⁶¹ According to Mr. Wright, welfare fraud is insurance fraud, and there is a direct relationship between the crime and the license sought here.⁶² He considered the welfare fraud charge to be very deceptive in nature and severity.⁶³ He testified that Ms. Davenport’s statement regarding the welfare charge indicated that duplicate claims for government assistance had been filed by her and her mother for Ms. Davenport’s child.⁶⁴

Mr. Wright also stated that the Department has to consider whether full rehabilitation has occurred or whether restitution has been made, including any parole violations and whether the applicant has met the requirements handed down

⁵⁹ Tr. at 42; Staff Ex. 5 at 36-37.

⁶⁰ Tr. at 43.

⁶¹ Tr. at 43.

⁶² Tr. at 43.

⁶³ Tr. at 44.

⁶⁴ Tr. at 42. Ms. Davenport’s statement indicates that the grandmother’s claim was made “behind [Ms. Davenport’s] back.” Staff Ex. 5 at 52. Other evidence suggests Ms. Davenport’s daughter may have been staying with the grandmother around this time. *See, e.g.*, Staff Ex. 5 at 44.

by a court for a prior criminal offense, and met them in a timely manner.⁶⁵ He noted that Ms. Davenport did not successfully complete her probation, which was revoked, for the welfare charge.⁶⁶ Mr. Wright observed that Ms. Davenport's probation was reinstated at some point and ultimately dismissed, though a civil judgment was entered for the remaining unpaid restitution.⁶⁷ According to Mr. Wright, Ms. Davenport still owes close to \$22,000 in restitution.⁶⁸

Mr. Wright reviewed letters of recommendation provided by Ms. Davenport and others in support of her licensure application.⁶⁹ He noted that one of the letters was written by Sean Self, who has a connection to the insurance industry, and that several mentioned knowledge of Ms. Davenport's history.⁷⁰ He also took into account Ms. Davenport's resume, which shows she has maintained a record of stable employment since 2009, because work history is one of the statutory factors the Department must consider in making its licensure decision.⁷¹

⁶⁵ Tr. at 44.

⁶⁶ Tr. at 42-43. Mr. Wright testified that he believed Ms. Davenport's probation was revoked in April 2021, Tr. at 43, but court records indicate it was revoked in 2014. *See* Staff Ex. 5 at 38 (indicating probation was revoked on August 12, 2014). Regardless, Ms. Davenport did not dispute that the probation was, at some point, revoked.

⁶⁷ Tr. at 43; *see* Staff Ex. 5 at 39 (stating a civil judgment was entered against Ms. Davenport in favor of the Los Angeles County Department of Social Services for \$22,257.14).

⁶⁸ Tr. at 43.

⁶⁹ Tr. at 44; Staff Ex. 5 at 43-47.

⁷⁰ Tr. at 45.

⁷¹ Tr. at 45-46.

Ultimately, Mr. Wright testified that he believed Ms. Davenport has made some strides, as demonstrated in her steady work history.⁷² However, he believed that the negative elements outweigh the positive elements presented in the application.⁷³ He noted the “recentness” of the welfare fraud conviction, which was the crime of most concern from his perspective, and that the amount of owed restitution had changed very little.⁷⁴ Mr. Wright did not believe that enough time had elapsed to ensure that Ms. Davenport took full responsibility and accountability for what transpired and had been rehabilitated.⁷⁵ He testified that Staff proposed that Ms. Davenport’s license application should be denied after evaluating application materials and all the factors in 28 Texas Administrative Code section 1.502 and chapter 53 of the Texas Occupations Code.⁷⁶

When asked on cross-examination what he would do to rehabilitate himself in this situation, Mr. Wright testified that each application is evaluated on a case-by-case basis.⁷⁷ He provided some examples, however, of rehabilitation evidence that has been offered by other applicants, including course completion certificates relating to behavior modification, as well as documentation showing restitution had been paid or that other court requirements stemming from prior convictions had

⁷² Tr. at 46.

⁷³ Tr. at 46.

⁷⁴ Tr. at 46.

⁷⁵ Tr. at 46.

⁷⁶ Tr. at 46-47.

⁷⁷ Tr. at 50.

been satisfied.⁷⁸ Mr. Wright testified that he believes in giving people second chances and that the Department's licensure review process is set up for that because each application is given a full evaluation and consideration using the statutory guidance.⁷⁹

C. TESTIMONY ON BEHALF OF MS. DAVENPORT

1. Testimony of Sean Self

Mr. Self is Ms. Davenport's fiancé and has been with her for seven years.⁸⁰ He is a licensed agent and claims adjuster, as well as a certified project manager.⁸¹ He currently works as a claims manager.⁸² Mr. Self introduced Ms. Davenport to the insurance industry, allowed her to shadow him on projects, and encouraged her to pursue that career path.⁸³ He testified that she has picked up on the work and was complimentary of her progress.⁸⁴ Mr. Self testified that he has watched Ms. Davenport battle and overcome adversity and that she has a desire to better her life.⁸⁵ He described Ms. Davenport as a smart and loving individual who is good with people.⁸⁶ He acknowledged Ms. Davenport's past but indicated that he was

⁷⁸ Tr. at 50.

⁷⁹ Tr. at 50-51.

⁸⁰ Tr. at 53.

⁸¹ Tr. at 56.

⁸² Tr. at 56.

⁸³ Tr. at 53.

⁸⁴ Tr. at 53.

⁸⁵ Tr. at 53-54.

⁸⁶ Tr. at 54.

committed to helping Ms. Davenport and commended her for the strides she has made.⁸⁷ He testified that he did not believe Ms. Davenport was dishonest or conniving, and that he believes she deserves a chance.⁸⁸

2. Testimony of Tofanya Tate

Ms. Tate is a licensed insurance agent and adjuster.⁸⁹ She testified that Ms. Davenport has “sat” with both Mr. Self and Ms. Tate, and that Ms. Davenport has been a supportive friend ever since they have known one another.⁹⁰ Ms. Tate explained that Ms. Davenport has met her family, and they all have great things to say about Ms. Davenport and love being around her.⁹¹ She stated that Ms. Davenport would be “awesome” as an adjuster and has come a long way and continues to put in the effort, despite her past.⁹² Ms. Tate testified that she believes people should not be put in a box or limited in moving forward in their lives because they did something wrong previously.⁹³

⁸⁷ Tr. at 54-55.

⁸⁸ Tr. at 53, 54-55.

⁸⁹ Tr. at 60.

⁹⁰ Tr. at 58, 58-59.

⁹¹ Tr. at 58.

⁹² Tr. at 59.

⁹³ Tr. at 59.

3. Testimony of Shanara Williams

Ms. Williams testified that she has known Ms. Davenport since they were 13 and 16 years old, respectively, and that they since remained friends.⁹⁴ Ms. Williams stated that she was very proud of how far Ms. Davenport has come and has watched her work hard to make positive changes in her life.⁹⁵ Over the years, Ms. Williams has seen Ms. Davenport learn to keep better company and to surround herself with positive influences.⁹⁶ Ms. Williams described Ms. Davenport as a beautiful person, inside and out, and stated that she believes Ms. Davenport will continue to do better, make positive changes, and make better decisions.⁹⁷ Ms. Williams indicated that she trusts Ms. Davenport, who has spent time with Ms. Williams's family and the people she is close with, and that Ms. Davenport has not done anything that is not trustworthy.⁹⁸ Ms. Williams testified that people can change their lives for the better despite having made mistakes.⁹⁹

4. Testimony of Ms. Davenport

During her testimony, Ms. Davenport acknowledged her criminal record and expressed remorse. She stated she has learned from her previous mistakes and made

⁹⁴ Tr. at 62.

⁹⁵ Tr. at 62.

⁹⁶ Tr. at 63-64.

⁹⁷ Tr. 63-64.

⁹⁸ Tr. at 62-63.

⁹⁹ Tr. at 63.

strides to be where she needs to be.¹⁰⁰ She indicated that her past has compromised her relationship with her daughter, but she has gotten some counseling and continues to move forward.¹⁰¹ Ms. Davenport testified that she has attempted to do the right thing and live her life correctly and that she has not been in trouble in over ten years.¹⁰²

As for the \$20,000 she owes in restitution, Ms. Davenport testified that, while she was able to maintain steady employment, she was unable to pay the restitution on top of rent and other essentials because of the minimum wage and “dead-end” jobs she was getting.¹⁰³ She believes that if she is able to work as an adjuster, she would be able to pay the restitution and move on with her life.¹⁰⁴

Ms. Davenport testified that she has shadowed her fiancé, Mr. Self, to get to this point.¹⁰⁵ She is grateful that she has gotten to where she is and believes that she deserves a second chance to prove herself; otherwise, she questions how she can move forward and pay the restitution that she owes.¹⁰⁶

¹⁰⁰ Tr. at 66.

¹⁰¹ Tr. at 67.

¹⁰² Tr. at 66, 68.

¹⁰³ Tr. at 66-67.

¹⁰⁴ Tr. at 67, 67-68.

¹⁰⁵ Tr. at 68.

¹⁰⁶ Tr. at 68.

D. EVIDENCE OF WORK HISTORY, ADDITIONAL TRAININGS, AND LETTERS OF RECOMMENDATION

Ms. Davenport provided a resume showing she has been consistently employed since February 2009.¹⁰⁷ She has worked as an in-home service provider for the elderly, a child-care provider, in quality control, and as a warehouse associate.¹⁰⁸

In addition, Ms. Davenport provided five letters of recommendation to the Department in support of her application:

1. Jasmine Higgins, a friend and former classmate, wrote that she has known Ms. Davenport for 27 years and that Ms. Davenport would be an excellent addition to the workforce as a licensed adjuster. Ms. Higgins indicated that she has witnessed tremendous growth in Ms. Davenport's skills that would allow her to excel. Ms. Higgins also stated that she has known Ms. Davenport to be of sound character, compassionate, disciplined, and honest.¹⁰⁹
2. Jamika McKee previously worked with Ms. Davenport at Krispy Kreme and wrote in support of Ms. Davenport obtaining her insurance license. Ms. McKee was aware of Ms. Davenport's misdemeanor welfare fraud conviction and wrote that this resulted from a lack of communication between Ms. Davenport and her mother, who was keeping Ms. Davenport's daughter for a time, regarding living arrangements and financial obligations. Ms. McKee stated that Ms. Davenport has attempted to rectify the welfare fraud conviction over the years and maintained employment while traveling between states and attempting to balance school and motherhood. Ms. McKee

¹⁰⁷ Staff Ex. 5 at 48-49.

¹⁰⁸ Staff Ex. 5 at 48-49.

¹⁰⁹ Staff Ex. 5 at 43, 70.

believes Ms. Davenport's prior experiences would assist her in her new career and make her more compassionate in her interactions.¹¹⁰

3. Juanna Moore employed Ms. Davenport as a live-in childcare provider from 2013 to 2014. She said Ms. Davenport displayed a level of care for Ms. Moore's six-month daughter and her home. She described Ms. Davenport as dependable, patient, and calm. Ms. Moore stated that she trusted Ms. Davenport with her bank account and that everything ran smoothly without any mishaps. Ms. Moore indicated that she never second-guessed Ms. Davenport nor had any doubts.¹¹¹
4. Lawan Moton is Ms. Davenport's sister, and she provided a letter stating that Ms. Davenport had grown and changed her life since making mistakes when she was younger. Ms. Moton stated she was proud of her sister and happy that Ms. Davenport wanted to help people and that she deserved to obtain the license.¹¹²
5. Sean Self, Ms. Davenport's fiancé and a licensed insurance agent and adjuster,¹¹³ wrote that Ms. Davenport had been studying and excelling for the last year and has achieved her goals through great determination and persistence. He characterized himself as her mentor and said he encouraged her to pursue her aspirations in this profession. According to Mr. Self, Ms. Davenport has the personality, drive, and wisdom to be successful, and he recommends her despite her background, which might otherwise draw some concerns.¹¹⁴

¹¹⁰ Staff Ex. 5 at 44, 85.

¹¹¹ Staff Ex. 5 at 45, 57.

¹¹² Staff Ex. 5 at 46, 82.

¹¹³ Tr. at 56.

¹¹⁴ Staff Ex. 5 at 47, 76, 77, 79.

IV. ANALYSIS

A. CRIMINAL OR FRAUDULENT/DISHONEST CONDUCT AS GROUNDS FOR DENIAL

Under Texas Insurance Code section 4005.101(b)(5), the Department may deny a license application if the Department determines that the applicant has engaged in fraudulent or dishonest acts or practices.¹¹⁵ The Department may also deny a license application if the applicant has been convicted of “an offense that directly relates to the duties and responsibilities of the licensed occupation.”¹¹⁶ In determining whether to deny a license application based on a person’s criminal history, the Department will consider the factors specified in Texas Occupations Code sections 53.022 and 53.023,¹¹⁷ as set out above. Further, the Department considers offenses with the essential elements of burglary and felony assault, as well as any offense for which fraud, dishonestly, or deceit are essential elements, to be “guideline” crimes that are “of prime importance” in determining fitness for licensure and that are directly related to the occupations it licenses.¹¹⁸

The Department presented un rebutted testimony that Ms. Davenport’s criminal background check revealed five offenses. One, the criminal contempt charge from 2011, was dismissed without a conviction and cannot be considered as grounds for denial under section 53.021. Regarding the other four offenses, Staff

¹¹⁵ Tex. Ins. Code § 4005.101(b)(5).

¹¹⁶ Tex. Occ. Code § 53.021(a)(1).

¹¹⁷ 28 Tex. Admin. Code § 1.502(h).

¹¹⁸ 28 Tex. Admin. Code § 1.502(e)(1), (e)(4)(B), (e)(4)(E).

alleged that the Department considered the factors in the Texas Occupations Code and Texas Insurance Code in determining that Ms. Davenport's convictions for welfare fraud, forgery, burglary, and domestic violence battery constituted grounds for denying her licensure application. The ALJ will address each offense separately.

1. 2001 misdemeanor forgery and burglary offenses (California)

Ms. Davenport pleaded nolo contendere to one count of misdemeanor burglary and one count of misdemeanor forgery in Los Angeles County in September 2001. She was convicted and sentenced to 36 months of probation.

However, court records indicate that Ms. Davenport's forgery conviction was expunged in 2009, with the guilty plea being set aside and vacated and the complaint dismissed.¹¹⁹ Staff had the burden to prove that this expunged offense could be considered a conviction under section 53.021 of the Texas Occupations Code but offered no such evidence. Therefore, the ALJ cannot consider this a conviction for purposes of section 53.021. Staff further had the burden to prove that Ms. Davenport engaged in "fraudulent or dishonest acts or practices" under Texas Insurance Code section 4005.101(b)(5), but failed to do so, as it presented no evidence contradicting Ms. Davenport's statements that she was not aware the check was fraudulent when she attempted to cash it or otherwise indicating that she was engaging in fraudulent or dishonest conduct. Therefore, the ALJ finds the 2001 forgery offense should not be considered as a ground for denial of Ms. Davenport's license.

¹¹⁹ Staff Ex. 5 at 31.

With respect to the California misdemeanor burglary conviction, the Department has already taken the factors in Texas Occupations Code section 53.022 into account in determining that burglary offenses are among those so serious that they are of prime importance in determining fitness for licensure and are directly related to Department-licensed occupations.¹²⁰ Therefore, Ms. Davenport’s burglary conviction is grounds for denial as a “guideline” offense under section 53.021(a)(1).¹²¹ The Department may also consider the conduct as demonstrating Ms. Davenport engaged in “fraudulent or dishonest acts or practices” under Texas Insurance Code section 4005.101(b)(5).¹²²

2. 2011 misdemeanor domestic violence battery offense (Nevada)

In July 2011, Ms. Davenport was convicted of misdemeanor domestic violence battery in Clark County, Nevada. The offense occurred in October 2008. While Mr. Wright testified that “any offense related to assault should be considered” as a crime of prime importance,¹²³ the Department’s Rule 1.502(e) is not so broad, as it

¹²⁰ Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(e)(4)(E). *Compare* Cal. Pen. Code § 459 (“Every person who enters any house . . . or other building, . . . with intent to commit grand or petit larceny or any felony is guilty of burglary.”) *with* Tex. Pen. Code § 30.02 (“A person commits an offense if, without the effective consent of the owner, the person . . . enters a building or habitation and commits or attempts to commit a felony, theft, or an assault.”).

¹²¹ The burglary conviction is not grounds for denial under section 53.021(a)(2) of the Occupations Code because the hearing evidence indicated that Ms. Davenport entered a financial institution, not a habitation. Tr. at 37, 39; *see* Tex. Occ. Code § 53.021(a)(2) (indicating a licensing authority may disqualify a person from receiving a license for convictions of offenses listed in Article 42A.054 of the Code of Criminal Procedure, which includes burglary under Article 42A.054(12) only if the offense involved a “habitation” pursuant to Penal Code section 30.02(d)); *and see* Tex. Pen. Code § 30.01(1) (defining “habitation” as “a structure or vehicle that is adapted for the overnight accommodation of persons”).

¹²² Tex. Ins. Code § 4005.101(b)(5).

¹²³ Tr. at 40.

limits such crimes to offenses “with the essential elements of . . . a *felony* offense of assault, as described by Penal Code, Chapter 22.”¹²⁴ The Department put forth no evidence demonstrating that Ms. Davenport’s misdemeanor domestic violence battery charge would constitute felony assault under any provision of Chapter 22 of the Texas Penal Code.¹²⁵ None of Rule 1.502(e)’s other subsections, moreover, include battery as a crime of prime importance.¹²⁶ As a result, the Department failed to meet its burden to show that the misdemeanor battery conviction is considered a crime of prime importance under Department guidelines.¹²⁷ The same is true to the extent the Department urges that the domestic violence battery conviction directly relates to the licensed occupation under section 53.022 of the Occupations Code or that it involved dishonest or fraudulent practices under section 4005.101(b)(5) of the Insurance Code. Staff’s witness testified regarding the nature and seriousness of the crime¹²⁸ but did not address any other factors under section 53.022,¹²⁹ nor did he suggest Ms. Davenport’s actions involved dishonesty or fraud.¹³⁰ Therefore, the ALJ finds the 2011 misdemeanor domestic violence battery offense should not be considered for denial of Ms. Davenport’s license.

¹²⁴ 28 Tex. Admin. Code § 1.502(e)(4)(B) (emphasis added).

¹²⁵ *See, e.g.*, Tex. Pen. Code §§ 22.01(b), (b-1), (b-2), (b-3), (f), 22.02(b), 22.021 (specifying some of the circumstances in which assault is classified as a felony offense under Chapter 22).

¹²⁶ *See generally* 28 Tex. Admin. Code § 1.502(e).

¹²⁷ *See* 28 Tex. Admin. Code § 1.502(e).

¹²⁸ *See* Tex. Occ. Code § 53.022(1).

¹²⁹ *See* Tex. Occ. Code § 53.022(2)-(5).

¹³⁰ *See* Tex. Ins. Code § 4005.101(b)(5).

3. 2013 misdemeanor welfare and insurance fraud offense (California)

Ms. Davenport was convicted of felony welfare and insurance fraud in 2013, which was later reduced to a misdemeanor in 2021. This offense occurred in 2009 and the crime includes the essential elements of fraud, dishonesty, or deceit.¹³¹ Therefore, the Department properly considered the factors in section 53.022 of the Texas Occupations Code in determining that the conviction directly related to the occupation of an insurance adjuster and would also be considered a crime of prime importance.¹³² The Department also properly considered that Ms. Davenport engaged in fraudulent or dishonest acts or practices.¹³³

B. FITNESS FOR LICENSURE IN VIEW OF MITIGATING FACTORS

Turning to the factors in section 53.023, the evidence established that Ms. Davenport has three¹³⁴ criminal convictions, all misdemeanors, spanning 12 years. Ms. Davenport was approximately 20 and 28 years old when she offended, so the convictions were not merely youthful indiscretions. While it's unclear when exactly the commission of the most recent offense ended, it has been almost ten years since Ms. Davenport's conviction in the welfare fraud case and over 20 years since

¹³¹ See Cal. Welf. & Inst. Code § 10980(c) (defining welfare fraud as obtaining benefits to which one is not entitled “willfully and knowingly, with the intent to deceive, by means of false statement or representation, or by failing to disclose a material fact, or by impersonation or other fraudulent device”).

¹³² Tex. Occ. Code §§ 53.021(a)(1), .022, .025; 28 Tex. Admin. Code § 1.502(e)(1).

¹³³ Tex. Ins. Code § 4005.101(b)(5).

¹³⁴ Although the domestic violence battery conviction may be considered generally as part of the nature and extent of Ms. Davenport's criminal history, along with the burglary and welfare and insurance fraud convictions, the ALJ does not, as described above, consider the battery conviction as a ground for denial of her application, and gives it no weight with regards to Ms. Davenport's fitness for licensure.

the commission of the burglary offense. She has maintained steady employment since at least 2009, working as an in-home care provider for the elderly and children, in quality control positions, and as a warehouse associate. She has also shadowed and trained with licensed adjusters. Ms. Davenport further provided letters of recommendation from mentors, friends, and a former employer. The former employer indicated that, from 2013 to 2014, which would have been after her most recent conviction, Ms. Davenport was trusted with her employers' bank account without incident, though the details on her responsibilities and access were sparse.¹³⁵ The other letters acknowledge Ms. Davenport's history and mistakes, some more specifically than others, yet nonetheless cast her in a positive light and characterize her as having changed for the better in recent years by surrounding herself with positive influences and making positive changes in her life, in addition to being trustworthy. Mentors, friends, and her fiancé also testified regarding how proud they are of Ms. Davenport's progress, hard work, and dedication to changing her life and achieving her goals while maintaining a good attitude.

On this record, however, the ALJ must conclude that Ms. Davenport has not quite proven by a preponderance of the evidence that she is presently fit for licensure as analyzed under the section 53.023(a) factors. To be sure, Ms. Davenport presented evidence showing she has made significant strides towards rehabilitation, and she should be commended for her stable work history, dedication to improvement and change, and efforts to surround herself with positive influences

¹³⁵ While the Department stated that Ms. Davenport's resume did not include any experience with handling money on behalf of others, this evidence was included in a letter of recommendation. Tr. at 71; Staff Ex. 5 at 45, 57. The ALJ notes, however, that the time period in question was limited and there is little description of Ms. Davenport's responsibilities or duties relating to the account in question.

and mentors. Yet while her ten-year period of good conduct is noteworthy, Ms. Davenport’s probation in the welfare fraud case was terminated just two years ago (after being revoked and reinstated in 2020), suggesting that this turn for the better is best viewed as a work still in progress. It took years for Ms. Davenport to complete the community service requirement of her welfare fraud conviction, and she still appears to owe the \$22,257.14¹³⁶ of restitution assessed in that case. Even acknowledging Ms. Davenport’s argument that paying off the restitution would be difficult based on the pay scale of her jobs, she provided no evidence that she has been making any payments whatsoever over the last two years—regardless of the amount—towards the total.

These considerations, coupled with the severity and nature of the crimes, which involved a financial institution and the government equivalent of an insurance program, ultimately tip the section 53.023(a) balance against her current fitness for licensure. Offenses involving fraud or deceptive practices and burglary must be given significant weight in a licensure determination as crimes of prime importance and crimes that directly relate to the duties and responsibilities of an insurance adjuster, an occupation that may give Ms. Davenport access to policyholders’ real and personal property and financial information. Nevertheless, if Ms. Davenport can remain on her current path and continue to build on her commendable record as her

¹³⁶ Mr. Wright testified he believed Ms. Davenport still owes “close to \$22,000” in restitution, Tr. at 43, and Staff’s pleadings allege that the full amount remains unpaid. Ms. Davenport testified she “wasn’t able to . . . pay the restitution due to my job,” Tr. at 51, and did not produce any evidence showing she has made payments since the civil judgment was entered in 2021 following her criminal conviction. *See* 28 Tex. Admin. Code § 1.502(h)(2)(G)(iv) (stating the applicant is required to furnish proof of payment of outstanding restitution as may have been ordered in criminal cases resulting in conviction).

convictions continue to age, the balance may subsequently tip more towards her fitness for licensure.

The ALJ finds that the evidence Ms. Davenport provided in support of her application is not sufficient to overcome the nature, seriousness, and extent of her criminal history. Accordingly, the ALJ concludes that, at this time, Ms. Davenport has not shown her fitness for licensure, and her application for an Adjuster All Lines license should be denied.

V. FINDINGS OF FACT

1. On September 21, 2021, Rownisha Tiya Davenport applied to the Texas Department of Insurance (Department) for an Adjuster All Lines license.
2. On December 3, 2021, the Department proposed to deny Ms. Davenport's application for an Adjuster All Lines license based on her criminal history.
3. Ms. Davenport timely requested a hearing to challenge the denial.
4. On February 22, 2023, staff (Staff) of the Department issued a Notice of Hearing on the denial of Ms. Davenport's application. 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 incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
5. On May 16, 2023, Administrative Law Judge (ALJ) Shelly M. Doggett of the State Office of Administrative Hearings (SOAH) convened a hearing on the merits via the Zoom videoconference platform. Attorney Latoya Merida represented Staff. Ms. Davenport appeared and represented herself. The hearing concluded the same day and the record closed on May 31, 2023, when Staff filed a copy of the transcript of the proceeding.

6. Ms. Davenport has the following criminal history:
 - a. On September 12, 2001, Ms. Davenport pleaded nolo contendere to one count of misdemeanor burglary and one count of misdemeanor forgery in Cause No. 1WL02635 in the Superior Court of California in Los Angeles County. She was convicted and sentenced to 36 months of probation. The offense occurred on or about July 11, 2001. In 2009, Ms. Davenport's forgery conviction was set aside and vacated, and the complaint dismissed pursuant to a post-conviction motion.
 - b. On July 15, 2011, Ms. Davenport was convicted of misdemeanor domestic violence battery in Cause No. 08M35242X in the Justice Court of Las Vegas Township in Clark County, Nevada. Ms. Davenport received two days of jail confinement and 48 hours of community supervision, and she was ordered to attend domestic violence counseling. The offense occurred in October 2008.
 - c. On August 12, 2013, Ms. Davenport pleaded guilty to the felony offense of welfare and insurance fraud in Case No. BA411046 in the Superior Court of California in Los Angeles County. She was convicted and sentenced to five years of probation, along with 350 hours of community service, and ordered to pay restitution in the amount of \$24,031.72. The offense occurred on or about March 1, 2009. On August 12, 2014, Ms. Davenport's probation was revoked, and a bench warrant in the amount of \$50,000 was subsequently issued. On May 5, 2020, her probation was reinstated with the original terms and conditions, with the probationary period extended to April 6, 2021. On April 6, 2021, a civil judgment was entered in favor of Los Angeles County Department of Social Services against Ms. Davenport in the amount of \$22,257.14. On August 24, 2021, the Superior Court of California ordered that Ms. Davenport's felony welfare and insurance fraud offense be reduced to a misdemeanor.
7. Welfare fraud and burglary are crimes of such a serious nature that the Department considers them to be of prime importance in determining whether to issue a license.

8. It has been approximately ten years since Ms. Davenport's last criminal offense. Ms. Davenport remained on probation until April 2021, and still owes \$22,257.14 in restitution for the welfare fraud matter.
9. Ms. Davenport has maintained steady employment since at least 2009. She has worked as an in-home care provider for the elderly and children, in quality control positions, and as a warehouse associate.
10. Ms. Davenport provided letters of recommendation and support from five individuals, including a former employer, former colleague, fiancé/mentor, sister, and friend. The letters indicated that Ms. Davenport has grown since her prior mistakes and taken steps to change her life and was responsible, caring, and trustworthy. One letter also indicates that, from 2013-2014, she was trusted with access to an employer's bank account, without incident.
11. Several witnesses also testified on Ms. Davenport's behalf and described steps she has taken to pursue a new career path, change her life for the better following past mistakes, and set herself up for success. These witnesses indicated that they were proud of her and her progress and that they believed she was trustworthy and honest.

VI. CONCLUSIONS OF LAW

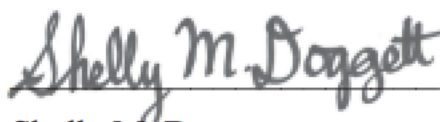
1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, .105, 4005.101, 4101.051-.062.
2. SOAH has authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Ins. Code § 4005.104.
3. Ms. Davenport received timely and sufficient notice of the hearing. Tex. Gov't Code §§ 2001.051-.052.; Tex. Ins. Code § 4005.104(b).
4. Staff had the burden of proving its basis for denying Ms. Davenport's license application, while Ms. Davenport had the burden of proving her fitness to be licensed despite her criminal history or fraudulent or dishonest conduct. 1 Tex. Admin. Code § 155.427.

5. The standard of proof is by a preponderance of the evidence. *Granek v. Texas St. Bd. of Med. Examin'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).
6. The Department may deny a license if the Department determines that the applicant has engaged in fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(5).
7. The Department may disqualify a person from receiving a license on the grounds that the person has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation. Tex. Occ. Code § 53.021(a)(1).
8. The Department has determined that certain crimes are of such a serious nature that they are of prime importance in determining fitness for licensure. These crimes include burglary and any offense for which fraud, dishonesty, or deceit is an essential element. 28 Tex. Admin. Code § 1.502(e)(1), (e)(4)(E).
9. Offenses of burglary and welfare and insurance fraud involve deceptive or fraudulent practices; are offenses for which fraud, dishonesty, or deceit is an essential element; and/or directly relate to the duties and responsibilities of an all lines adjuster. Tex. Ins. Code § 4005.101(b)(5); Tex. Occ. Code § 53.022; 28 Tex. Admin. Code § 1.502(e)(1), (e)(4)(E).
10. The Department may deny Ms. Davenport's license application because she has been convicted of offenses that involve deceptive or fraudulent practices; are offenses for which fraud, dishonesty, or deceit is an essential element; and directly relate to the duties and responsibilities of the licensed occupation. Tex. Ins. Code § 4005.101(b)(5); Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(f).
11. The Department will consider the factors listed in Texas Occupations Code §§ 53.022 and 53.023 in determining whether to issue a license to an applicant despite a criminal offense or fraudulent or dishonest conduct and will not issue a license unless the mitigating factors outweigh the serious nature of the criminal offense or fraudulent or dishonest conduct when viewed in the light of the occupation being licensed. 28 Tex. Admin. Code §§ 1.502(f), (h).

12. The preponderance of the evidence shows that Ms. Davenport is not currently fit to perform the duties and discharge the responsibilities of a licensed insurance adjuster. Tex. Occ. Code § 53.023.
13. The Department should deny Ms. Davenport's application for a license.

SIGNED JULY 27, 2023

ALJ Signature:

A handwritten signature in cursive script that reads "Shelly M. Doggett". The signature is written in black ink and is positioned above a horizontal line.

Shelly M. Doggett

Presiding Administrative Law Judge

2023-8192

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Associated Case Party: RownishaTiya Davenport

Name	BarNumber	Email	TimestampSubmitted	Status
Rownisha Tiya Davenport		[REDACTED]	7/27/2023 1:23:03 PM	SENT

Associated Case Party: Texas Department of Insurance

Name	BarNumber	Email	TimestampSubmitted	Status
Whitney Fraser		Whitney.Fraser@tdi.texas.gov	7/27/2023 1:23:03 PM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	7/27/2023 1:23:03 PM	SENT
Latoya Merida		Latoya.Merida@tdi.texas.gov	7/27/2023 1:23:03 PM	SENT

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	7/27/2023 1:23:03 PM	SENT