

No. 2022-7138

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

Date: 01/03/2022

Subject Considered:

Milton E. Faber

Farmers Branch, Texas 75234-6645

Consent Order
SOAH Docket No. 454-21-1366
TDI Enforcement File No. 19521

General remarks and official action taken:

This is a consent order with Milton E. Faber (Faber). The department proposed to deny Faber's public insurance adjuster license and adjuster license with a property and casualty qualification due to Faber's prior disciplinary history. Faber has shown good cause establishing why his prior disciplinary history should not be a bar to the issuance of new licenses. This order grants a public insurance adjuster license and adjuster license with a property and casualty qualification to Faber subject to the terms of the two-year probated suspension detailed in this order.

Waiver

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

Findings of FactLicensure and Previous Disciplinary History

1. Faber previously held an adjuster license with a property and casualty qualification, originally issued by the department on April 18, 2002.
2. On April 18, 2004, Faber's adjuster license expired due to Faber's failure to renew it.
3. Faber also previously held a public insurance adjuster license, originally issued by the department on December 16, 2003.
4. On October 10, 2006, the department issued a warning letter to Faber following a complaint that alleged Faber loaned insureds monies against their claims and that Faber had a financial interest in a home restoration company in violation of the Texas Insurance Code.
5. The department later opened another Enforcement case alleging that Faber violated provisions of the Texas Insurance Code and the Texas Administrative Code related to the business of public insurance adjusting.
6. On December 16, 2011, Faber voluntarily surrendered his public insurance adjuster license in lieu of proceeding to a formal hearing.

License Applications

7. On October 29, 2018, Faber applied for a public insurance adjuster license. On that same date, Faber applied for an adjuster license with a property and casualty qualification.
8. On February 5, 2019, the department proposed to deny Faber's applications based on Faber's prior disciplinary history. Faber appealed that decision and made a written request for a hearing, but this matter was ultimately resolved without a hearing as set forth below.
9. On October 25, 2019, Faber submitted an additional application for a public insurance adjuster license.

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10. On December 30, 2019, the department again proposed to deny Faber's application based on Faber's prior disciplinary history. Faber appealed that decision and made a written request for a hearing, but this matter was ultimately resolved without a hearing as set forth below.

Licensee Misconduct and Background

11. Under Section 4102.158 of the Texas Insurance Code, a public insurance adjuster is prohibited from engaging in any activities that may be reasonably construed as presenting a conflict of interest, including soliciting or accepting any renumeration from, having a financial interest in, or deriving any direct or indirect financial benefit from any firm that obtains business in connection with any claim a public insurance adjuster has a contract or agreement to adjust.
12. While Faber was previously licensed, it was alleged he had several conflicts of interest regarding the claims for which he had contracted with the insured as the public insurance adjuster in violation of the Texas Insurance Code. Faber had a professional relationship with various contractors that he used while previously licensed. Based on evidence provided by Faber to the department, none of the professional relationships he had were found to be conflicts of interest.
13. Under Section 4102.160 of the Texas Insurance Code, public insurance adjusters are prohibited from advancing money to any potential client or insured.
14. While Faber was previously licensed, it was alleged he advanced money to potential clients or insureds in violation of the Texas Insurance Code. Faber conceded that he previously advanced money to potential clients or insureds. Faber now maintains this is a violation of the Texas Insurance Code and represents he will not advance money to potential clients or insureds in the future.
15. Under Section 4102.104 of the Texas Insurance Code, a public insurance adjuster may receive a commission for services provided consisting of an hourly fee, a flat rate, a percentage of the total amount paid by an insurer to resolve a claim, or another method of compensation. The total commission received may not exceed 10 percent of the amount of the insurance settlement on the claim.
16. While Faber was previously licensed, it was alleged he received in excess of 10 percent of the amount of the insurance settlement on the claim in violation of the

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Texas Insurance Code. Faber provided evidence to the department showing he did not receive in excess of 10 percent, but instead he undercharged insureds in several instances.

Conclusions of Law

1. The commissioner has jurisdiction over this matter under TEX. INS. CODE §§ 82.051-82.055, 4001.002, 4005.101, 4005.102, 4102.051, 4102.104, 4102.158, and 4102.160; 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 has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056, TEX. INS. CODE §§ 36.104 and 82.055, and 28 TEX. ADMIN. CODE § 1.47.
3. Faber 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. Faber committed acts for which a license may be denied under TEX. INS. CODE § 4005.101, as contemplated in TEX. INS. CODE § 4005.102.
5. Under TEX. INS. CODE § 4005.105, Faber has shown good cause establishing why his previous disciplinary history should not be a bar to the issuance of new licenses.

Order

It is ordered that a public insurance adjuster license and an adjuster license with a property and casualty qualification are granted to Milton E. Faber. It is further ordered that the public insurance adjuster license and the adjuster license with a property and casualty qualification are suspended for two years, probated.

If, during the probation period imposed by this order, the department issues any additional licenses or authorizations to Faber, 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.

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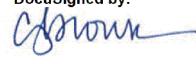
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Beginning from the date of this order and continuing through the probation period, Faber must file a written report, on or before the 15th day of the month on a quarterly basis for the months of March, June, September, and December, with the Texas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

- a. Faber's current mailing address and telephone number;
- b. the name, mailing address, and telephone number of Faber's employer, and if Faber 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 entity which has employed or contracted with Faber as an adjuster or as a public insurance adjuster;
- d. the name and address of any insurer or entity which has terminated Faber's employment or contract as an adjuster or as a public insurance adjuster; and
- e. a copy of any and all contracts Faber has entered into with an insurer, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.

Faber 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 Faber concerning his performance as an insurance service representative, as well as a written explanation detailing the steps taken to resolve it.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

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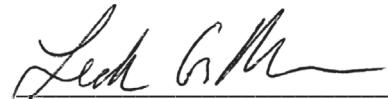
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Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Cassie Tigue, Staff Attorney
Enforcement Division

Approved as to form and content:

s/ Eddie M. Pope
Eddie Pope, Opposing Counsel

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Affidavit

STATE OF Texas §
§
COUNTY OF Dallas §

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

"My name is Milton E. Faber. 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.

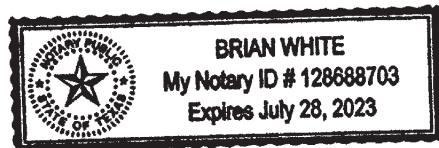
I have knowingly and voluntarily entered into the foregoing consent order and agree with and consent to the issuance and service of the same by the commissioner of insurance of the State of Texas."



Affiant

SWORN TO AND SUBSCRIBED before me on December 17th 2021.

(NOTARY SEAL)




Signature of Notary Public

Brian White
Printed Name of Notary Public