

No. **2016-4732**

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

Date: OCT 14 2016

Subject Considered:

**Texas Department of Insurance
v.
Marcus A. Garza**

SOAH Docket No. 454-16-4438.C

General remarks and official action taken:

The commissioner of insurance considers the general lines property and casualty insurance license held by Marcus Garza (Respondent). Following a hearing before the State Office of Administrative Hearings (SOAH), the administrative law judge (ALJ) submitted a proposal for decision containing findings of fact and conclusions of law, recommending that Respondent's license should be revoked. The commissioner accepts the proposed findings of fact, conclusions of law, and recommendation of the ALJ, with nonsubstantive formatting and style changes.

FINDINGS OF FACT

1. Respondent holds a general lines property and casualty insurance license issued by the Texas Department of Insurance (Department).
2. On April 20, 2015, and amended on May 31, 2016, Respondent pleaded guilty and was convicted in the United States District Court of the Western District of Texas of felony bank fraud and failure to file tax returns.
3. Respondent was sentenced to 30 months' imprisonment, to be followed by five years' probation.
4. Respondent is currently incarcerated.
5. The Department's staff (Staff) advised Respondent that it was seeking revocation of his license because he was convicted of a felony, for which he was incarcerated.

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6. Staff sent Respondent a notice of hearing on June 2, 2016. The notice informed him that a hearing would be held at SOAH at 9:00 a.m. on August 9, 2016. The notice also informed Respondent of the matters to be considered, the legal authority under which the hearing would be held, and the statutory provisions applicable to the matters to be considered.
7. On June 16, 2016, Staff filed a motion for summary disposition. Respondent filed responses on June 28 and July 25, 2016. The record closed July 25, 2016. No hearing was held on Staff's motion for summary disposition.

CONCLUSIONS OF LAW

1. The Department has jurisdiction to decide this matter. Tex. Ins. Code §§ 82.051–82.052 and 4005.101–4005.102; Tex. Gov't Code §§ 2001.051–2001.178; and Tex. Occ. Code §§ 53.021–53.023.
2. SOAH has jurisdiction over matters relating to the conduct of the hearing and issuance of a recommendation in the form of a proposal for decision. Tex. Gov't Code Ch. 2003.
3. Adequate and timely notice was provided to Respondent. Tex. Gov't Code §§ 2001.051 and 2001.052.
4. Because Respondent is incarcerated for a felony, the Department is obligated to revoke his license, as required by Texas Occupations Code § 53.021(b).
5. The pleadings and summary disposition evidence show that there is no genuine issue as to any material fact, and that Staff is entitled to a decision in its favor as a matter of law. 1 Tex. Admin. Code § 155.505.
6. Respondent's license should be revoked.

The commissioner of insurance orders that the general lines property and casualty insurance license held by Marcus Garza is revoked.



David C. Mattax
Commissioner of Insurance