

No. **2016-4808**

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

Date: **NOV 22 2016**

**Subject Considered:**

Texas Department of Insurance

v.

Joshua Caleb Adair

SOAH Docket No. 454-16-1757.C

**General remarks and official action taken:**

The commissioner of insurance considers the application of Joshua Caleb Adair (Adair) for a general lines license with life, accident, and health qualifications. Following a hearing before the State Office of Administrative Hearings, the administrative law judge submitted a proposal for decision containing findings of fact and conclusions of law, recommending that the department deny Adair's application for a license. The commissioner accepts the proposed findings of fact, conclusions of law, and recommendation of the administrative law judge, with nonsubstantive formatting and style changes.

**FINDINGS OF FACT**

1. On July 31, 2015, Adair applied for a general lines license with life, accident, and health qualifications (license).
2. On December 11, 2015, the Texas Department of Insurance (Department) proposed to deny Adair's application for a license. Adair requested a hearing to challenge the denial.
3. On January 5, 2016, the Department issued a notice of hearing on the contested denial of the application.
4. 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 a short, plain statement of the factual matters asserted.

5. The hearing in this case was convened on May 25, 2016, at the offices of the State Office of Administrative Hearings (SOAH) in Austin, Texas, before Administrative Law Judge (ALJ) Beth Bierman. Staff was represented by staff attorney Elise Mazza. Adair represented himself. The record closed on June 17, 2016, with the filing of the transcript.
6. On January 30, 2006, in Cause No. 007-0945-05 in the 7th Judicial District Court of Smith County, Texas, Adair pleaded guilty or nolo contendere to a charge of theft (of a firearm), Class A misdemeanor, and was placed on deferred adjudication. He was ordered to pay court costs and restitution and to serve one year of community supervision. Adair was approximately 26 years old when the offense was committed on January 20, 2005. Adair was discharged without adjudication of guilt on February 8, 2007.
7. On February 13, 2009, in Complaint No. 003-80147-08, in the County Court of Law, Smith County, Texas, Adair was charged by information of the misdemeanor offense of assault causing bodily injury family violence. Adair was approximately 28 years old when the offense was committed on November 19, 2007. Because Adair pleaded guilty to a subsequent offense of robbery, this complaint was dismissed but the offense was taken into consideration in the assessment of punishment for the robbery offense.
8. On February 13, 2009, in Complaint No. 003-83917-08, in the County Court of Law, Smith County, Texas, Adair was charged by information of the misdemeanor offense of theft of property greater than or equal to \$50 and less than \$500. Adair was approximately 28 years old when the offense was committed on March 7, 2008. Because Adair pleaded guilty to a subsequent offense of robbery, this complaint was dismissed but the offense was taken into consideration in the assessment of punishment for the robbery offense.
9. On June 17, 2008, in Cause No. CR-2008-282-3, in the Circuit Court of Miller County, Arkansas, Eighth District South, Third Division, Adair pleaded guilty or nolo contendere to the felony offense of fraudulent use of a credit or debit card and was found guilty by the court. Adair was ordered to pay a fine and court costs, and to serve 36 months of probation. Adair was approximately 28 years old when he committed this offense on March 26, 2008.
10. On June 17, 2008, in Cause No. CR-2008-282-3, in the Circuit Court of Miller County, Arkansas, Eighth District South, Third Division, Adair pleaded guilty or nolo contendere to the felony offense of possession of a controlled substance (methamphetamine) and was found guilty by the court. Adair was ordered to

pay a fine and court costs, and to serve 36 months of probation. Adair was approximately 28 years old when he committed this offense on March 26, 2008.

11. On February 13, 2009, in Cause No. 241-1604-08, in the 241st Judicial District Court, Smith County, Texas, Adair pleaded guilty to the offense of robbery, a second degree felony. He was placed on deferred adjudication. Adair was ordered to pay court costs and to serve five years of community supervision. The offense was committed on or about July 19, 2008, when Adair was approximately 28 years old.
12. On July 31, 2009, the court found that Adair had violated the terms and conditions of his community supervision. The court found Adair guilty of robbery and sentenced him to 10 years confinement in the state penitentiary and ordered him to pay \$8,625.87 in restitution. After five years in prison, Adair was paroled on January 24, 2014, and is scheduled to be released from parole on July 4, 2019.
13. Adair was released from prison in 2014 after serving five years. He has not engaged in any criminal conduct since his release from prison.
14. Adair was approximately 26 to 29 years old when he committed the criminal offenses.
15. Adair had previously served in the United States Marine Corps and was married and had children at the time he committed his criminal offenses.
16. During his incarceration, Adair learned welding and construction site safety.
17. Since his release from prison, Adair has tried to support his family by working at a trailer shop and with an insurance agency setting appointments. He did not work at the insurance agency for three months prior to the hearing.
18. When Adair visits his parole officer, he pays the parole fee and the scheduled payment for restitution. His restitution will be paid in full by the time he is scheduled to be discharged from parole in 2019.
19. Adair submitted several letters of recommendation. The letters were from his family and people who knew him at work, in the community, and through his church. The letter writers expressed confidence in Adair's trustworthiness to hold an insurance license.

Joshua Caleb Adair  
SOAH Docket No. 454-16-1757.C  
Page 4 of 4

20. Adair did not submit letters of recommendation from law enforcement or his parole officer.
21. The preponderance of the evidence does not establish Adair's current fitness to hold a license.

## CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, 4001.105, 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. Adair received timely and sufficient notice of hearing. Tex. Gov't Code ch. 2001; Tex. Ins. Code § 4005.104(b).
4. In 2008, Adair committed a felony and fraudulent or dishonest acts that directly relate to the duties and responsibilities of an insurance agent. Tex. Ins. Code § 4005.101(b)(5) and (8); 28 Tex. Admin. Code § 1.502(d) and (f).
5. The Department should deny Adair's application for a license.

The commissioner of insurance orders that Joshua Caleb Adair's application for a general lines license with life, accident, and health qualifications is denied.



---

David C. Mattax  
Commissioner of Insurance