

No. 2017 - 5053

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

Date: **APR 28 2017**

**Subject Considered:**

Texas Department of Insurance

v.

Mathew Smith Maurer

SOAH Docket No. 454-17-0101.C

**General remarks and official action taken:**

The Department of Insurance (department) considers the application of Mathew Smith Maurer (Maurer) for a funeral prearrangement life license. 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 Maurer's application for a license. The department 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 March 3, 2015, Maurer applied for a funeral prearrangement life license (license).
2. On October 15, 2015, the department proposed to deny Maurer's application for a license. Maurer requested a hearing to challenge the denial.
3. On November 8, 2016, the department issued a first amended 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 December 7, 2016, at the offices of the State Office of Administrative Hearings (SOAH) in Austin, Texas, before Administrative Law Judge Beth Bierman. Staff was represented by staff attorney Jeannie Ricketts. Maurer represented himself. The record closed on December 28, 2016, with the filing of the transcript.
6. Maurer previously held a pre-need agent license issued by the department in January 2005. The license expired in January 2009 when Maurer failed to renew the license.
7. On March 7, 2012, in Cause No. 27501 in the County Court of Wilbarger County, Texas, Maurer pleaded guilty to misdemeanor insurance fraud and was placed on probation for two years. He was ordered to complete 100 hours of community service restitution and pay a \$1,000 fine, court costs of \$267, a monthly probation service fee of \$60 (\$1,440 total), and a Crime Stoppers fee of \$25. Maurer was approximately 36 years old when the offense was committed on or about May 9, 2011.
8. On October 30, 2013, the County Court of Wilbarger County, Texas, adjudicated Maurer's guilt and convicted him of misdemeanor insurance fraud because he violated the terms of his deferred adjudication. Maurer was fined \$700 and sentenced to 90 days in county jail. His confinement was suspended and Maurer was placed on two years' probation, ordered to pay the fine, court costs of \$16, and a monthly probation fee of \$60. On September 25, 2014, Maurer's probation was terminated early because he had complied with the all its terms and conditions.
9. On December 2, 2002, in Complaint No. 27,770, in the County Court of Upshur County, Texas, Maurer was charged with the class B misdemeanor offense of theft by check because he wrote a \$115.91 check on a closed account. Maurer was approximately 27 years old when the offense was committed on July 7, 2002. Because Maurer paid restitution and a fee, the complaint was dismissed.
10. On January 7, 1998, in Cause No. 97-46534, in the County Court at Law No. 1, Williamson County, Texas, Maurer pleaded no contest to the misdemeanor offense of Theft B (theft of property by check), committed on February 1 and March 1, 1997. Maurer was approximately 22 years old when the offenses were committed. Maurer was ordered to pay a \$200 fine and court costs of \$202.

11. On May 5, 1997, in Cause No. 96-4327-1, in the County Court of Law No. 1, Williamson County, Texas, Maurer pleaded no contest to the misdemeanor offense of Theft B, which was reduced to the Class C misdemeanor offense of Issuance of a Bad Check. Maurer was placed on six months of deferred adjudication and ordered to pay a fine and a special expense, and ordered to make a charitable contribution. Maurer was approximately 21 years old when he committed this offense on or about March 16, 1996. He completed deferred adjudication and the case was dismissed in December 1997.
12. Maurer was approximately 21 to 36 years old when he committed the criminal offenses.
13. Maurer has been gainfully employed for most of the time from 2013 to the present.
14. From 2014 to 2015, Maurer was attending Ashford University with the goal of obtaining a Bachelor Degree in Business Management.
15. Maurer submitted two letters of recommendation from previous employers with his application for a license. The letter writers expressed confidence in Maurer's trustworthiness to hold an insurance license.
16. Maurer did not submit letters of recommendation from prosecutors or law enforcement. His parole officer submitted a letter indicating Maurer complied with all probation requirements and was released.
17. The preponderance of the evidence does not establish Maurer's current fitness to hold a license.

## CONCLUSIONS OF LAW

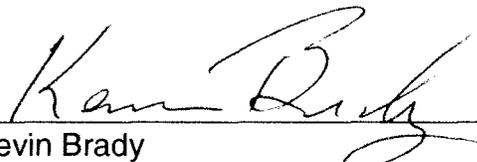
1. The department has jurisdiction over this matter, Tex. Ins. Code § 4001.002, 4001.105, 4005.101.
2. SOAH has authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Ins. Code § 4005.104.
3. Maurer received timely and sufficient notice of hearing. Tex. Gov't Code ch. 2001; Tex. Ins. Code § 4005.104(b).

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4. In 2013, Maurer committed a misdemeanor and engaged in fraudulent or dishonest activity that directly relates to the duties and responsibilities of an insurance agent. Tex. Ins. Code § 4005.101(b)(5); 28 Tex. Admin. Code § 1.502(d) and (f).
5. The department may deny a license if an applicant engages in fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(5).
6. The department may deny a license if an applicant commits an offense that directly relates to the duties and responsibilities of an insurance agent. Tex. Occ. Code § 53.021(a)(1).
7. Granting the requested license would provide Maurer the opportunity to engage in the same type of fraudulent or dishonest activity. 28 Tex. Admin. Code § 1.502(h)(1)(C).
8. At this time, Maurer lacks the fitness required to perform the duties and discharge the responsibilities of the insurance licensed occupation. Tex. Occ. Code § 53.022 - 53.023; 28 Tex. Admin. Code § 1.502(h)(1)(D).
9. The department should deny Maurer's application for a license.

The Department of Insurance orders that Mathew Smith Maurer's application for a funeral prearrangement life license is denied.



Kevin Brady  
Deputy Commissioner for Agency affairs  
Texas Department of Insurance  
Delegation Order 4506