

No. 2019- 6019

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

Date: JUL 16 2019

Subject Considered:

Lucas White
219 Maple Ave
Gladewater, Texas 75647-4925

Consent Order
TDI Enforcement File No. 17879

General remarks and official action taken:

This is a consent order granting a general lines agent license with a life, accident, and health qualification to Lucas White (White). The license is suspended for four years or until the termination of White's parole in cause no. 45174-A, whichever is longer. The suspension shall be probated, and the terms and conditions stated in this order will apply.

Waiver

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

Findings of Fact

License Application

1. White submitted an application for a general lines agent license with a life, accident, and health qualification to be issued by the Texas Department of Insurance.

2. Based on White's criminal history, the department requested additional evidence in support of his licensure. White provided additional evidence and the department has determined that he should be issued a probated license.

Criminal History

3. On November 5, 2002, White was convicted of the Class B misdemeanor of Driving While Intoxicated in cause no. CR-2002-03330-E in County Criminal Court #5 in Denton, Texas. White was sentenced to 150 days confinement with 18-months probation and ordered to pay a \$500 fine and court costs.
4. On January 26, 2010, White was convicted of the Class A misdemeanor of Driving While Intoxicated 2nd in cause no. 2009-3167 in the Gregg County Court at Law in Longview, Texas. White was sentenced to one-year confinement with two years of probation and was ordered to pay a \$800 fine and court costs. White's probation was revoked on February 28, 2012, due to a probation violation and he was sentenced to 300 days confinement.
5. On January 5, 2012, White was convicted of the 3rd degree felony of Driving While Intoxicated 3rd or more in cause no. 241-0397-11 in the 241st District Court in Tyler, Texas. White was sentenced to three years confinement and court costs.
6. On July 18, 2016, White was convicted of the 3rd degree felony of Driving While Intoxicated 3rd or more in cause no. 45174-A in the 188th District Court in Longview, Texas. White was sentenced to five years confinement and ordered to pay court costs. White was released from confinement on August 18, 2018.
7. White is currently on parole until July 17, 2021.

Evidence of Rehabilitation

8. White cooperated extensively and timely with the department in its investigation of his criminal background. White provided evidence of his rehabilitation to support his fitness for licensure.
9. In accordance with the requirements of TEX. OCC. CODE § 53.025, the department has developed guidelines relating to the matters which the department will consider in

determining whether to grant, deny, suspend, or revoke any license or authorization under its jurisdiction, as described in 28 TEX. ADMIN. CODE §§ 1.502(e)(1)-1.502(k).

10. 28 TEX. ADMIN. CODE § 1.502(h) specifically tracks the rehabilitative factors listed in TEX. OCC. CODE §§ 53.022 and 53.023 that the department must consider in determining whether those factors outweigh the serious nature of the applicant's criminal history.
11. TEX. OCC. CODE § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1) describe the initial factors the department must consider in determining whether issuance of the license is appropriate:

FACTORS IN DETERMINING WHETHER CONVICTION RELATES TO OCCUPATION.

In determining whether a criminal conviction directly relates to an occupation, the licensing authority shall consider:

- (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 licensed 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; and
 - (4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of the licensed occupation.
12. Considering the factors outlined in TEX. OCC. CODE ANN. § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1), White's convictions for driving while intoxicated do not directly relate to the occupation of a general lines agent but demonstrate a history of criminal behavior that reflects on his ability, capacity, or fitness to perform the duties and responsibilities of the licensed occupation.
 13. TEX. OCC. CODE ANN. § 53.023 and 28 TEX. ADMIN. CODE § 1.502(h)(2) describe additional factors the department must consider in determining whether issuance of the license is appropriate for a person who has committed a crime:

ADDITIONAL FACTORS FOR LICENSING AUTHORITY TO CONSIDER.

- (a) In determining the fitness to perform the duties and discharge the responsibilities of the licensed occupation of a person who has been convicted of a crime, the licensing authority shall consider, in addition to the factors listed in Section 53.022:
- (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; and
 - (6) other evidence of the person's fitness, including letters of recommendation from:
 - (A) prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
 - (B) the sheriff or chief of police in the community where the person resides; and
 - (C) any other person in contact with the convicted person.
- (b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations of the prosecution, law enforcement, and correctional authorities as required by Subsection (a)(6).
- (c) In addition to fulfilling the requirements of Subsection (b), the applicant shall furnish proof in the form required by the licensing authority that the applicant has:
- (1) maintained a record of steady employment;
 - (2) supported the applicant's dependents;
 - (3) maintained a record of good conduct; and

- (4) paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant has been convicted.
14. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), White has attributed his convictions to a former drinking problem which he maintains he has overcome. White has accepted responsibility and expressed remorse for his criminal conduct.
15. In consideration of TEX. OCC. CODE § 53.023(a)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(B), White's criminal convictions occurred when he was between 23 and 37 years old.
16. In consideration of TEX. OCC. CODE § 53.023(a)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(C), White's most recent conviction was in 2016, and he is on parole until July 17, 2021.
17. In consideration of TEX. OCC. CODE §§ 53.023(a)(4)-(5) and 53.023(c)(1), and 28 TEX. ADMIN. CODE §§ 1.502(h)(2)(D) and 1.502(h)(2)(G)(i), White has provided the department with evidence demonstrating his commitment to rehabilitation while incarcerated and continuing while he has been on parole. White is currently attending an addiction recovery program through his church. White has also provided the department with a detailed resume showing that he has been steadily employed in the restaurant industry since 1999. White was the Director of Operations and Executive Chef at the Coppell Restaurant Group. White created all operational and training materials, food and drink recipes, and oversaw budgets and financial information. As a general manager at several restaurants, White made inventory purchases and increased profitability by 26% in 12 months. Presently, White has been working at an insurance agency, helping in a non-agent capacity. White has communicated that he has a job offer as an agent if he obtains his insurance license.
18. In consideration of TEX. OCC. CODE § 53.023(a)(6) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(F), the department received six letters of recommendation, including letters from a supervisor and employer, attesting to his fitness and character:
- a. John Parsons, an agent in good standing with the department and White's current employer, describes White as a worthy candidate for an insurance

license due to White's character. In White's job interview he "was very forthright and transparent about his criminal history." Parsons asserts that while White has worked for him, he has demonstrated that he is honest, reliable, professional, and hard working. Parsons has offered White a job as an agent contingent upon his receiving an insurance license.

- b. A former supervisor that is aware of White's criminal history describes White as hard working and as someone who exhibits true leadership. The supervisor feels he "became a better person because of [White]". White "focused on the team's success rather than himself and cared for customers like they were family."
 - c. White's church worship leader confirms White is active in his recovery group and describes White as being highly successful in his recovery. White is a vital part of their worship team and is accountable and enthusiastic about making progress in his recovery.
 - d. A family friend and current business partner, who has known White for over 20 years and is aware of White's criminal history, describes White as dedicated, trustworthy, reliable, and "a valuable asset to any organization." Additionally, White "has used his past experiences to fuel his desire to be a positive light in his own life, the lives of his family and friends, and the community around him."
 - e. A family friend of over 40 years says White "has grown into a respectable, confident, and well-rounded man." In addition to "his excellent communication skills, White is conscientious, thoughtful when working with others and exudes a positive outlook on life."
 - f. White's mother confirms White is very active and dedicated in his recovery group. Additionally, White's family serves as a support system that helps him maintain his sobriety.
19. In consideration of TEX. OCC. CODE § 53.023(c)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(ii), White has no dependents to support.
20. In consideration of TEX. OCC. CODE § 53.023(c)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iii), White has maintained a record of good conduct since being

released from incarceration in August 2018 and regularly attends recovery group sessions.

21. In consideration of TEX. OCC. CODE § 53.023(c)(4) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iv), White has provided the department with evidence showing he has paid all court costs, fines, and restitution in full.
22. The factors described in 28 TEX. ADMIN. CODE § 1.502(h) and TEX. OCC. CODE §§ 53.022 and 53.023 outweigh the serious nature of White's convictions.
23. Due to White's criminal background, the department needs the opportunity to monitor his insurance activities to ensure he demonstrates the ability, capacity, and fitness required to perform and discharge the responsibilities of a licensed insurance agent.

Conclusions of Law

1. The commissioner of insurance has jurisdiction over this matter pursuant to: TEX. INS. CODE §§ 82.051-82.055, 4005.101, 4005.102, and 4051.051; 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 of insurance has the authority to dispose of this case informally pursuant to: TEX. GOV'T CODE § 2001.056; TEX. INS. CODE § 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. White 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. White committed an act for which the department may deny a license under TEX. INS. CODE §§ 4001.105 and 4005.101.
5. Pursuant to 28 TEX. ADMIN. CODE § 1.502(f), the factors in TEX. OCC. CODE §§ 53.022-53.023 outweigh the serious nature of White's criminal convictions.

Order

It is ordered that a general lines agent license with a life, accident, and health qualification is granted to Lucas Cash White. It is further ordered that the general lines agent license with a life, accident, and health qualification is suspended for four years or until the termination of White's parole in cause no. 45174-A, whichever is longer. The suspension shall be probated, and the terms and conditions stated in this order will apply.

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

Beginning from the date of this order and continuing through the probation period, White must provide written notice of his criminal record to any appointing company, agency, employer, sponsor, or other entity on behalf of which he performs the acts of an insurance agent. White must provide the department with a copy of the notification within 30 days of the appointment, employment, or sponsorship by emailing it to the Texas Department of Insurance at EnforcementReports@tdi.texas.gov.

Beginning from the date of this order and continuing through the probation period, White must file a written report, on or before the 15th day of each 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. White's current mailing address and telephone number;
- b. the name, mailing address, and telephone number of White's employer, and if White 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 which has appointed White as an agent;
- d. the name and address of any insurer which has canceled White's appointment as an agent; and
- e. a copy of any and all contracts White has entered into with an insurer, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.

White 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 White concerning his performance as an agent, as well as a written explanation detailing the steps taken to resolve it.

Kent C. Sullivan
Commissioner of Insurance

By: 
Doug Slape
Chief Deputy Commissioner
Commissioner's Order No. 2018-5528

Recommended and reviewed by:


Leah Gillum, Associate Commissioner
Enforcement Section


Natalie Olvera, Staff Attorney
Enforcement Section

2019- 6019

Commissioner's Order
Lucas White
Page 10 of 10

Affidavit

STATE OF Texas

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COUNTY OF Van Zandt

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

"My name is Lucas White. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

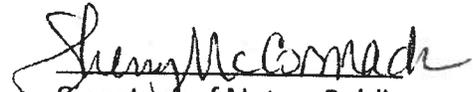
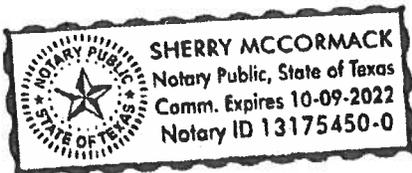
I waive rights provided by the Texas Insurance Code and other applicable law and acknowledge the jurisdiction of the commissioner.

I have knowingly and voluntarily entered into this 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 this 30 day of April, 2019.


Signature of Notary Public

(NOTARY STAMP)