

No. 2019- 6078

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

Date: SEP 09 2019

Subject Considered:

Yazdan Christopher Heydari
4334 Lake Run Dr.
Missouri City, Texas 77459-3260

Consent Order
TDI Enforcement File No. 16133

General remarks and official action taken:

The subject of this consent order is whether an insurance service representative license should be issued to Yazdan Christopher Heydari (Heydari). The Texas Department of Insurance proposed to deny the license due to Heydari's criminal history. Heydari has provided rehabilitative evidence that outweighs the serious nature of his criminal history. This order grants an insurance service representative license to Heydari subject to the terms of the two-year probated suspension detailed in this order.

Waiver

Heydari acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Heydari 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. On January 9, 2018, Heydari applied for an insurance service representative license to be issued by the Texas Department of Insurance.

2. On May 2, 2018, the department proposed to deny Heydari's application based on his criminal history. Heydari timely submitted a written request for a hearing, but this matter was ultimately resolved without a hearing as set forth below.

Criminal History

3. On February 7, 2001, Heydari pleaded guilty to the offense of aggravated robbery, a first degree felony, in case no. 861220, in the 262nd District Court of Harris County, Texas. Heydari was sentenced to seven years confinement. On August 9, 2004, Heydari was released on parole. On February 7, 2008, Heydari was discharged from parole.
4. On October 16, 2001, Heydari pleaded guilty to the offense of aggravated robbery with a deadly weapon, a first degree felony, in case no. 002803, in the 331st Judicial District Court of Travis County, Texas. Heydari was sentenced to five years confinement to be served concurrently with the sentence rendered in case no. 861220. On August 9, 2004, Heydari was released on parole. On January 1, 2006, Heydari was discharged from parole.
5. On January 2, 2007, Heydari pleaded guilty to the offense of DWI 1st, a class B misdemeanor, in case no. 1411588, in the County Criminal Court at Law No. 9 of Harris County, Texas. Heydari was sentenced to 180 days confinement. Heydari's sentence was suspended and he was placed on community supervision for 18 months. On July 7, 2008, Heydari was discharged from community supervision.
6. On October 1, 2009, Heydari pleaded guilty to the offense of possession of a controlled substance, a state jail felony, in case no. 1226802, in the 262nd District Court of Harris County, Texas. Heydari was ordered to serve five years deferred adjudication. On January 25, 2012, Heydari's deferred adjudication was terminated successfully.

Evidence of Rehabilitation

7. Heydari has cooperated extensively and timely with the department in its investigation of his criminal background. Heydari provided evidence of his rehabilitation to support his fitness for licensure.
8. 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)-1.502(k).

9. Pursuant to 28 TEX. ADMIN. CODE § 1.502(e)(1) and 1.502(e)(4)(F), among the crimes the department considers to be of such a serious nature that they are of prime importance in determining fitness for licensure are crimes for which fraud, dishonesty, or deceit is an essential element and theft offenses as described by Penal Code, Chapter 31.
10. Heydari's convictions for aggravated robbery and aggravated robbery with a deadly weapon are included in the crimes the department considers to be of such a serious nature that they are of prime importance in determining fitness for licensure pursuant to 28 TEX. ADMIN. CODE § 1.502(e)(1) and 1.502(e)(4)(E).
11. Pursuant to 28 TEX. ADMIN. CODE § 1.502(f), the department may issue a license if the applicant has engaged in criminal activity described in 28 TEX. ADMIN. CODE § 1.502(e)(1) and 1.502(e)(4)(E) if the commissioner determines that the serious nature of the criminal activity is outweighed by the rehabilitative factors described in 28 TEX. ADMIN. CODE § 1.502(h).
12. 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.
13. 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.
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14. Considering the factors outlined in TEX. OCC. CODE ANN. § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1), Heydari's convictions for aggravated robbery and aggravated robbery with a deadly weapon directly relate to the occupation of an insurance service representative because "the special nature of the relationship between licensees...and the public with respect to insurance and related businesses regulated by the department requires that the public place trust in and reliance upon such persons due to the complex and varied nature of insurance and insurance-related products." 28 TEX. ADMIN. CODE §§ 1.502(a), 1.502(e)(1), and 1.502(e)(4)(F).
15. 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:

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.
16. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), Heydari has aggravated robbery and aggravated robbery with a deadly weapon convictions which he attributes in part to associating with the wrong crowd and being very young and immature. Heydari has accepted responsibility and expressed remorse for his criminal conduct.
17. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), Heydari has two drug or alcohol related convictions which he attributes in part to how he chose to handle stress and other problems in his life at the time. After Heydari's possession of a controlled substance conviction, he spent time in an outpatient rehabilitation facility. He maintains that he does not drink alcohol and he does not participate in illegal drug use. Heydari has accepted responsibility and expressed remorse for his criminal conduct.

18. In consideration of TEX. OCC. CODE § 53.023(a)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(B), Heydari's criminal activity occurred in 2000, 2007, and 2009 when he was 16 years old, 24 years old, and 26 years old respectively.
19. In consideration of TEX. OCC. CODE § 53.023(a)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(C), it has been nearly 10 years since Heydari's last criminal activity occurred, and approximately 18 years since his last felony convictions directly related to the business of insurance.
20. 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), Heydari has provided the department with evidence demonstrating his commitment to rehabilitation while on probation and after probation. Heydari provided the department with a detailed resume and explanation of his employment history. He has been steadily employed since his convictions. Heydari has been working for his father's insurance agency in various roles since 2004. His positions have included an administrative assistant and a marketing manager. He earned his GED while he was incarcerated and went on to earn his Bachelor of Arts degree in December of 2008.
21. In consideration of TEX. OCC. CODE § 53.023(a)(6) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(F), the department received nine letters of recommendation from Heydari's family, friends and colleagues who describe Heydari both professionally and personally as hard-working, reliable, and trust-worthy. Mostly all of the recommenders have known Heydari for over 20 years.
22. In consideration of TEX. OCC. CODE § 53.023(c)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(ii), Heydari has a child for whom he provides support.
23. In consideration of TEX. OCC. CODE § 53.023(c)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iii), Heydari has maintained a record of good conduct without any criminal activity for nearly 10 years. Heydari provided the department with documentation from the 262nd District Court of Harris County, Texas, showing that his deferred adjudication successfully terminated early on January 25, 2012.
24. In consideration of TEX. OCC. CODE § 53.023(c)(4) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iv), Heydari has provided the department with evidence that he has paid all court fines and fees in full.

25. 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 Heydari's convictions.
 26. Due to Heydari'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 an insurance service representative.
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Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 4005.101, 4005.102, and 4051.151; 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 dispose of this case informally pursuant to the provisions of TEX. GOV'T CODE § 2001.056, 28 TEX. ADMIN. CODE § 1.47, and TEX. INS. CODE § 82.055.
3. Heydari 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. Heydari 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 commissioner has determined that the factors in TEX. OCC. CODE §§ 53.022-53.023 outweigh the serious nature of Heydari's criminal convictions.
6. The commissioner is an insurance regulatory official authorized to regulate Heydari's activities in the business of insurance. The commissioner has primary jurisdiction to grant Heydari written consent to engage or participate in the business of insurance, pursuant to 18 U.S.C. § 1033.

Order

It is ordered that an insurance service representative license is granted to Yazdan Christopher Heydari. It is further ordered that the insurance service representative license is suspended for two years, probated.

If, during the probation period imposed by this order, the department issues any additional licenses or authorizations to Heydari, 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, Heydari must provide written notice of his criminal record to any employer, company, or other entity on behalf of which he performs the acts of an insurance service representative. Heydari 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, Heydari 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. Heydari's current mailing address and telephone number;
- b. the name, mailing address, and telephone number of Heydari's employer, and if Heydari 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 appointed Heydari as an insurance service representative;
- d. the name and address of any insurer or entity which has terminated Heydari's appointment as an insurance service representative; and
- e. a copy of any and all contracts Heydari has entered into with an insurer, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.

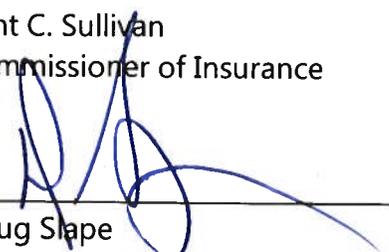
Heydari must notify the department immediately of the following by emailing EnforcementReports@tdi.texas.gov:

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

Written consent, as contemplated by 18 U.S.C. § 1033(e)(2), is granted for Heydari to engage or participate in the business of insurance with respect to persons who are domiciled in and risks and subjects of insurance that are resident, located, or to be performed in Texas. This written consent will remain in effect as long as Heydari maintains a license or authorization issued by the department. This written consent terminates immediately if any insurance license or authorization held by Heydari is suspended or revoked.

Kent C. Sullivan
Commissioner of Insurance

By: _____

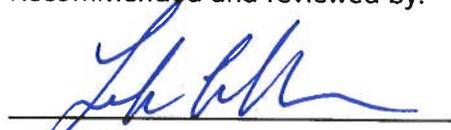

Doug Slape
Chief Deputy Commissioner

Commissioner's Order No. 2018-5528

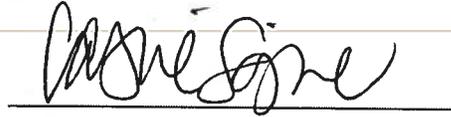
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Recommended and reviewed by:

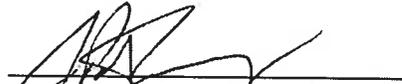


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