

No. 2019- 6146

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

Date: NOV 14 2019

Subject Considered:

Michael Derek Reynolds
17 Professional Drive
Temple, Texas 76504

Consent Order
TDI Enforcement File No. 19939

General remarks and official action taken:

The subject of this consent order is whether a general lines agent license with a property and casualty qualification should be issued to Michael Derek Reynolds (Reynolds). Reynolds has provided rehabilitative evidence that outweighs the serious nature of his criminal history. This order grants a general lines agent license with a property and casualty qualification to Reynolds subject to the terms of the two-year probated suspension detailed in this order.

Waiver

Reynolds acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Reynolds 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 November 19, 2018, Reynolds applied for a general lines agent license with a property and casualty qualification with the Texas Department of Insurance (TDI).

Criminal History

2. All of Reynolds' convictions stem from the same conduct - a car accident that occurred on August 9, 2007, and resulted in the death of one person.
3. On December 19, 2007, Reynolds was convicted of the felony offense of intoxication assault in case no. 1079283D in the 396th District Court of Tarrant County, Texas. Reynolds was sentenced to 10 years confinement.
4. On December 19, 2007, Reynolds was also convicted of the felony offense of intoxication manslaughter in cause no. 1079285D in the 396th District Court of Tarrant County, Texas. Reynolds was sentenced to 10 years confinement.
5. On May 1, 2008, Reynolds was convicted of the felony offense of intoxication assault in cause no. 10179279D, in the 396th District Court of Tarrant County, Texas. The court placed Reynolds on probation for 10 years and ordered him to pay court costs and \$36,000 in restitution. The court also converted Reynolds' 10 years of confinement in cause nos. 1079283D and 1079285D to 10 years probation. All three probationary periods ran concurrently.
6. Reynolds successfully completed all terms of his probation. His probation was terminated on April 30, 2018.

Evidence of Rehabilitation

7. Reynolds cooperated extensively and timely with the department in its investigation of his criminal background. Reynolds 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. 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.

10. 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 the 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.
11. Considering the factors outlined in TEX. OCC. CODE § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1), Reynolds' convictions for intoxication assault and intoxication manslaughter do not directly relate to the occupation of a general lines agent.
12. TEX. OCC. CODE § 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 FACTOR 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 and 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 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.
13. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), Reynolds has attributed his conduct leading to his conviction as being a foolish mistake when he was young. Reynolds has accepted responsibility and expressed remorse and guilt for his conduct.

14. In consideration of TEX. OCC. CODE §53.023(a)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(B), Reynolds was 19 years old at the time of his criminal convictions.
15. In consideration of TEX. OCC. CODE § 53.023(a)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(C), Reynolds' convictions were in 2007 and 2008. Reynolds successfully completed his probation in 2018.
16. 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), Reynolds provided the department with evidence demonstrating his commitment to rehabilitation while on probation. Reynolds works with Mothers Against Drunk Driving, and speaks to teens about the dangers and consequences of drinking and driving. Reynolds also spoke on the victim impact panel, a program aimed toward DWI offenders, in Tarrant County, Texas. Reynolds provided the department with evidence showing that he has been steadily employed since his convictions. Reynolds worked as a licensed massage therapist for several years. While working as a licensed massage therapist, Reynolds handled payments and company monies. From 2010 through 2015, Reynolds worked at Associated Wholesale Grocers where he handled company purchases. Reynolds has worked at an insurance agency since September 2018, in a non-agent capacity. Reynolds has communicated to the department that he will work as an insurance agent for the agency if he obtains his insurance license.
17. In consideration of TEX. OCC. CODE § 53.023(a)(6) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(F), the department received several letters of recommendation attesting to Reynolds' fitness and trustworthiness:
 - a. Reynolds' direct supervisor, at his current place of employment, Laura Harris Agency, confirms knowledge of Reynolds' criminal history. His supervisor describes him as ethical, reliable, and trustworthy. His supervisor also trusts Reynolds to handle clients' personal information.
 - b. The principal agent of Laura Harris Agency confirms knowledge of Reynolds' criminal history and states he is an exemplary employee.
 - c. Reynolds' co-worker describes him as reliable, trustworthy, and having demonstrated the ability to overcome obstacles.

18. In consideration of TEX. OCC. CODE § 53.023(c)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iv), Reynolds has provided the department with evidence showing he has paid all court costs, fines, and restitution in full.
19. 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 Reynolds' convictions.
20. Due to Reynolds' 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 has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051 – 82.055, 84.021 – 84.044, 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 has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. Reynolds 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. Reynolds has 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 Reynolds' criminal convictions.

Order

It is ordered that a general lines agent license with a property and casualty qualification is granted to Michael Derek Reynolds. It is further ordered that the general lines agent

license with a property and casualty qualification is suspended for two years. 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 Reynolds, 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, Reynolds 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. Reynolds must provide the department with a copy of the notification within 30 days of 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, Reynolds must file a written report, on or before the 15th date 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:

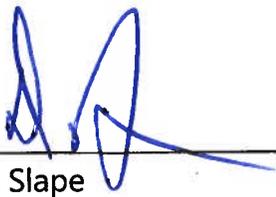
- a. Reynolds' current mailing address and telephone number;
- b. the name, mailing address, and telephone number of Reynolds' employer, and if Reynolds is self-employed, a statement that he is self-employed and the name, mailing address, and telephone number of his business;
- c. the name and address of any insurer which has appointed Reynolds as an agent;
- d. the name and address of any insurer which has canceled Reynolds' appointment as an agent; and
- e. a copy of any and all contracts Reynolds has entered into with an insurer, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.

Reynolds 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 of 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 Reynolds 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

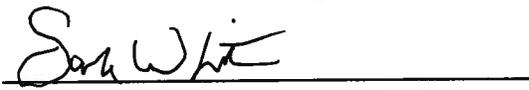
By: 

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

Recommended and reviewed by:



Leah Gillum, Associate Commissioner
Enforcement Section



Sarah White, Staff Attorney
Enforcement Section

