

No. 2020 - 6217

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

Date: JAN 30 2020

Subject Considered:

Sandra Elena Sustaita-Mascorro
[REDACTED]
Grand Prairie, Texas 75050-5526

Consent Order
TDI Enforcement File No. 19683

General remarks and official action taken:

This is a consent order with Sandra Elena Sustaita-Mascorro (Sustaita-Mascorro). The department grants Sustaita-Mascorro a general lines agent property and casualty license with a § 1033 waiver.

Waiver

Sustaita-Mascorro acknowledges that the Texas Insurance Code and other applicable law provide certain rights. Sustaita-Mascorro 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. Sustaita-Mascorro submitted an application for a general lines agent property and casualty license to be issued by the department.

2. Based on Sustaita-Mascorro's criminal history, the department requested additional evidence in support of her licensure. Sustaita-Mascorro provided additional evidence and the department has determined that she should be issued a license.

Criminal History

3. On November 27, 1995, Sustaita-Mascorro received deferred adjudication for felony theft in cause no. F-9302878-Q, in the 204th Judicial District of Dallas County, Texas. Sustaita-Mascorro was sentenced to 5 years of community supervision. On May 19, 1997, Sustaita-Mascorro was adjudicated guilty for violating the terms of her community supervision. Sustaita-Mascorro was ordered to pay a fine and placed on regular probation for a period of 5 years. The felony theft charge resulted from stealing money from her employer at the time.
4. On May 19, 1997, Sustaita-Mascorro was adjudicated guilty of felony unlawful possession of a controlled substance, in cause no. F9731459-SQ, in the [REDACTED] Dallas County, Texas. Sustaita-Mascorro was sentenced to two years confinement, probated for five years. On July 23, 1997, Sustaita-Mascorro was sentenced to 15 months confinement for violating the terms of her probation.

Previous Licensure

5. Sustaita-Mascorro previously held a limited lines agent license with a county mutual qualification with the department from October 23, 1996 through October 23, 1998.

Evidence of Rehabilitation

6. Sustaita-Mascorro cooperated timely with the department in its investigation of her criminal background. Sustaita-Mascorro provided evidence of her rehabilitation to support her fitness for licensure.
7. 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).

8. 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.
9. 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.
10. Considering the factors outlined in TEX. OCC. CODE ANN. § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1), Sustaita-Mascorro's conviction for felony theft directly relates to the occupation of a general lines agent but Sustaita-Mascorro's conviction for felony possession of a controlled substance does not relate directly to the occupation of a general lines agent. Both convictions demonstrate a history of criminal behavior that reflects on her ability, capacity, or fitness to perform the duties and responsibilities of the licensed occupation.
 11. 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 of 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.
12. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(A), Sustaita-Mascorro has attributed her two convictions to an old addiction stemming from an abusive marriage with her former husband. Sustaita-Mascorro has accepted responsibility for her criminal conduct.
13. In consideration of TEX. OCC. CODE § 53.023(a)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(B), Sustaita-Mascorro's criminal convictions occurred when she was between 29 and 31 years old.
14. In consideration of TEX. OCC. CODE § 53.023(a)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(C), Sustaita-Mascorro's most recent conviction was in 1997.
15. 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), Sustaita-Mascorro has provided the department with evidence demonstrating her commitment to rehabilitation. Sustaita-Mascorro presently co-owns and runs a salvage car dealership and has been licensed by the Texas Department of Motor Vehicles since 2007. Sustaita-Mascorro has also provided the department with a detailed resume showing that she has been steadily employed since 1999. Sustaita-Mascorro worked as an office manager and an administrative assistant at two separate insurance agencies. Sustaita-Mascorro handled money transactions, maintained account records, entered data, and handled customer service.
16. In consideration of TEX. OCC. CODE § 53.023(a)(6) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(F), the department received four letters of recommendation, including letters from an employer, a licensed chemical dependency counselor, family, and friends attesting to her fitness and character:
 - a. The employer Sustaita-Mascorro stole from re-hired Sustaita-Mascorro after her conviction and "never made [him] regret offering her to stay working with us." The employer described Sustaita-Mascorro as a hard-working person striving for her dreams and goals. Sustaita-Mascorro always had a positive attitude, and the employer has given Sustaita-Mascorro his sincere forgiveness for the crime she committed against him. The employer believes

Sustaita-Mascorro has become a stronger person in her values and beliefs as the years have passed.

- b. A licensed chemical dependency counselor recommends Sustaita-Mascorro's licensure "without reservation." The counselor has known Sustaita-Mascorro for 10 years and states Sustaita-Mascorro has become "a successful and valuable asset to society." Sustaita-Mascorro "owns a small dealership, owns her house... and wants to continue her journey of growing."
 - c. Sustaita-Mascorro's stepdaughter who describes Sustaita-Mascorro as a "good, loving, caring, [and] hard-working person." Sustaita-Mascorro has also supported her stepdaughter's dreams and made it easier for her to continue her education. The stepdaughter is currently working on obtaining her master's degree and Sustaita-Mascorro is supporting her. Sustaita-Mascorro's stepdaughter "could not have asked for a better person [and] loves her for all she has done for me and my family."
 - d. Sustaita-Mascorro's family friend, who is aware of Sustaita-Mascorro's criminal convictions, knows Sustaita-Mascorro as a "kind, helpful, honest, and good person." The family friend attests to Sustaita-Mascorro's determination to make a better life for her children and has shown them how important education is in life. Sustaita-Mascorro also is described as a "very bright businesswoman."
17. In consideration of TEX. OCC. CODE § 53.023(c)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(ii), Sustaita-Mascorro supports her dependents.
 18. In consideration of TEX. OCC. CODE § 53.023(c)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iii), Sustaita-Mascorro has maintained a record of good conduct since her conviction in 1997.
 19. In consideration of TEX. OCC. CODE § 53.023(c)(4) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iv), Sustaita-Mascorro has provided the department with evidence showing she has paid all court costs, fines, and restitution in full.
 20. 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 Sustaita-Mascorro's convictions.

Agreement

21. Sustaita-Mascorro's husband, Arturo Mascorro (A. Mascorro), individual identification number 850372, had his adjuster and general lines agent licenses revoked by the department on December 20, 2018 by Official Order No. 2018-5796. The default order was issued based on A. Mascorro's failure to appear in person or by legal representative at his scheduled license revocation hearing. A. Mascorro was found to have converted and misappropriated insurance policy premiums and provided a fictitious certificate of insurance.
22. Sustaita-Mascorro agrees that her husband, A. Mascorro, may not be engaged or participate in the business of insurance without holding the required licenses.

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 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. Sustaita-Mascorro has knowingly and voluntarily waived all procedural rights to which she 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. Sustaita-Mascorro 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 Sustaita-Mascorro's criminal convictions.

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Commissioner's Order
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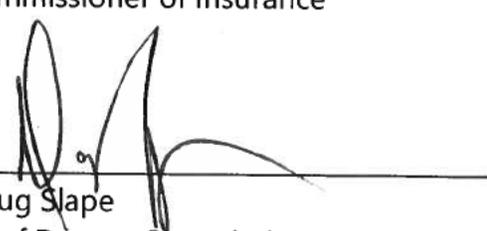
Order

It is ordered that a general lines agent property and casualty license is granted to Sandra Elena Sustaita-Mascorro.

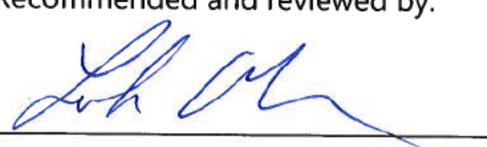
Sustaita-Mascorro is granted written consent, as contemplated by 18 U.S.C. § 1033(e)(2), to engage or participate in the business of insurance with respect to persons who are domiciled in and risks and subjects of insurance that are resident, located, or to be performed in Texas. This written consent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

Kent C. Sullivan
Commissioner of Insurance

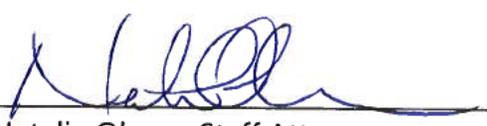
By: _____


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

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Natalie Olvera, Staff Attorney
Enforcement Division

