

No. **2023-7983**

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

Date: 05/23/2023

Subject Considered:

Texas Department of Insurance

v.

Roderick Craig Lee

SOAH Docket No. 454-22-1143.C

General Remarks and Official Action Taken

The subject of this order is Roderick Craig Lee's application for an adjuster all lines license. This order denies Mr. Lee's license application.

Background

After proper notice was given, the above-styled case was heard by an administrative law judge for the State Office of Administrative Hearings. The administrative law judge made and filed a proposal for decision containing a recommendation that the department deny Mr. Lee's license application. A copy of the proposal for decision is attached as Exhibit A.

The commissioner of the Texas Department of Insurance (TDI) adopts the administrative law judge's proposed findings of fact and conclusions of law.

Findings of Fact

The findings of fact contained in Exhibit A are adopted by the commissioner and incorporated by reference into this order.


Conclusions of Law

The conclusions of law contained in Exhibit A are adopted by the commissioner and incorporated by reference into this order.

COMMISSIONER'S ORDER
TDI v. Roderick Craig Lee
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Page 2 of 2

Order

It is ordered that Roderick Craig Lee's application for an adjuster all lines license is denied.

DocuSigned by:

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Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:

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Jessica Barta, General Counsel

DocuSigned by:

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Kara Salmanson, Attorney

SOAH DOCKET NO. 454-22-1143.C

TEXAS DEPARTMENT OF INSURANCE	§	BEFORE THE STATE OFFICE
	§	
v.	§	OF
	§	
RODERICK CRAIG LEE,	§	
Applicant	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Insurance (Department) seeks to deny the application of Roderick Craig Lee for an Adjuster All Lines license based on his criminal history. After considering the evidence and applicable law, the Administrative Law Judge (ALJ) recommends that the Department deny Mr. Lee’s license application.

I. JURISDICTION, NOTICE, AND PROCEDURAL HISTORY

Notice and jurisdiction were not disputed and are addressed in the Findings of Fact and Conclusions of Law without further discussion here. The hearing was convened by the Zoom videoconferencing platform on March 22, 2022, before ALJ Susan Rodriguez. Attorney Stephanie Daniels represented Staff. Mr. Lee appeared and represented himself. The hearing concluded on the same day, and the record closed on April 6, 2022, when the transcript was received by the State Office of Administrative Hearings (SOAH).

II. DISCUSSION

A. Background

Mr. Lee filed an application with the Department for an Adjuster All Lines license on May 11, 2021.¹ Based on the answers Mr. Lee gave to the questions on the application, the

¹Staff Ex. 1.

Department requested more information from him. In response, Mr. Lee provided certified copies of court records, a narrative statement, letters of recommendation, and information about his work history. On June 3, 2021, the Department proposed to deny his application. Mr. Lee timely requested a hearing before SOAH to contest the denial.²

B. Applicable Law

The Department considers it very important that license holders and applicants are honest, trustworthy, and reliable,³ and will evaluate an applicant's criminal history and other conduct to determine whether the applicant possesses those qualities. The Department may deny a license application on several grounds, including if the applicant has engaged in fraudulent or dishonest acts or practices, has been convicted of a felony, or has been convicted of a crime directly related to the duties and responsibilities of the licensed occupation.⁴ For applicants with criminal convictions, the Department considers the factors specified in Texas Occupations Code (Code) sections 53.022 and .023 in determining whether to grant a license to the applicant.⁵

Code section 53.022 sets forth the following factors, which address whether a criminal conviction directly relates to the duties and responsibilities of the licensed occupation:

- 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 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;

² Staff Ex. 2 at 19.

³ 28 Tex. Admin. Code § 1.502(c).

⁴ Tex. Ins. Code § 4005.101(b)(5), (8); Tex. Occ. Code § 53.021(a)(1).

⁵ 28 Tex. Admin. Code § 1.502(h).

- 4) the relationship of the crime to the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation; and
- 5) any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.⁶

If the Department determines that an offense directly relates to the duties and responsibilities of the licensed occupation, it then considers the following factors prescribed by Code section 53.023, which bear upon an applicant's fitness for licensure despite criminal history, in making its ultimate licensing determination:

- 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;
- 6) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
- 7) other evidence of the person's fitness, including letters of recommendation.⁷

It is the applicant's responsibility, to the extent possible, to obtain and provide to the Department the applicant's evidence of fitness discussed above.⁸ Additionally, an applicant must furnish proof to the Department that the applicant has: (1) maintained a record of steady employment; (2) supported the applicant's dependents, where applicable; (3) otherwise maintained a record of good conduct; and (4) paid all outstanding court costs, supervision fees,

⁶ See also 28 Tex. Admin. Code § 1.502(h)(1).

⁷ See also 28 Tex. Admin. Code § 1.502(h)(2).

⁸ 28 Tex. Admin. Code § 1.502(h)(3); Tex. Occ. Code § 53.023(b).

finer, and restitution ordered in any criminal case in which the applicant has been convicted.⁹ The Department will not issue a license unless, when viewed in light of the occupation being licensed, the mitigating factors outweigh the serious nature of the criminal offense or the fraudulent or dishonest conduct.¹⁰

Staff has the burden of proving its grounds for denying Mr. Lee's license application, while Mr. Lee has the burden to prove his fitness to be licensed despite his criminal history or fraudulent or dishonest conduct.¹¹ The standard of proof is by a preponderance of the evidence.¹²

III. EVIDENCE

At the hearing, Staff offered exhibits 1, 2, 3, 4a, 4b, and 5, which were admitted into evidence without objection.¹³ Staff also presented the testimony of Lewis Weldon Wright, IV, the Department's agent and adjuster liaison to its Enforcement Division. Mr. Lee testified on his own behalf and did not offer any exhibits.

A. Mr. Lee's Criminal History

Staff presented evidence that Mr. Lee has the following criminal history, which he did not dispute:

- a. On August 12, 1996, Mr. Lee pleaded nolo contendere to misdemeanor assault in Cause No. 9622853 in County Criminal Court at Law No. 8 of Harris County, Texas. He was convicted and sentenced to serve four days in jail. The offense occurred on May 23, 1996.¹⁴

⁹ 28 Tex. Admin. Code § 1.502(h)(2)(G).

¹⁰ 28 Tex. Admin. Code § 1.502(f).

¹¹ 1 Tex. Admin. Code § 155.427.

¹² *Granek v. Tex. St. Bd. of Med. Examin'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

¹³ Staff Ex. 3 was offered and admitted confidential and under seal.

¹⁴ Staff Ex. 4a at 120-21.

- b. On June 8, 1998, Mr. Lee pleaded guilty to misdemeanor burglary of a vehicle in Cause No. 9811901 in County Criminal Court at Law No. 15 in Harris County, Texas. He was convicted and sentenced to 100 days in jail. The offense occurred on March 23, 1998.¹⁵
- c. On April 22, 1999, Mr. Lee pleaded guilty to misdemeanor driving while license suspended in Cause No. 9908220 in County Criminal Court at Law No. 15 in Harris County, Texas. He was convicted and sentenced to three days in jail. The offense occurred on February 24, 1999.¹⁶
- d. On October 11, 2001, Mr. Lee pleaded guilty to two charges of misdemeanor burglary of a vehicle in Cause Nos. 1077241 and 1077242 in County Criminal Court at Law No. 5 in Harris County, Texas. He was convicted and sentenced to 100 days in jail. The offenses occurred on September 8, 2001.¹⁷
- e. On November 27, 2001, Mr. Lee pleaded guilty to misdemeanor burglary of a vehicle in Cause No. MA0070537 in County Criminal Court No. 8 of Dallas County, Texas. He was convicted and sentenced to 120 days in jail. The offense occurred on February 5, 2000.¹⁸
- f. On September 13, 2002, Mr. Lee pleaded guilty to aggravated assault of a family member, a second-degree felony, in Cause No. 902584 in the 208th District Court of Harris County, Texas. The offense occurred on February 13, 2002. The court deferred adjudication of Mr. Lee's guilt and he was placed on community supervision for five years. On August 26, 2003, Mr. Lee was adjudicated guilty after he violated the terms of his probation and was sentenced to serve two years in the Texas Department of Criminal Justice (TDCJ).¹⁹
- g. On July 8, 2004, Mr. Lee pleaded guilty to three counts of credit/debit card abuse, a state jail felony offense, in Cause Nos. 03-12-08706-CR (Counts I and II) and 04-01-00412-CR (Count III) in the 9th Judicial District Court of Montgomery County, Texas. He was convicted and sentenced to 14 months in TDCJ. The offenses occurred on January 30, 2003.²⁰
- h. On July 16, 2004, Mr. Lee pleaded guilty to two counts of burglary of a vehicle in County Court at Law No. 1 of Montgomery County, Texas, in Cause Nos.

¹⁵ Staff Ex. 4a at 123-24.

¹⁶ Staff Ex. 4a at 126-27.

¹⁷ Staff Ex. 4a at 132-36.

¹⁸ Staff Ex. 4a at 130.

¹⁹ Staff Ex. 4a at 138-52.

²⁰ Staff Ex 4a at 155-66; Staff Ex. 5 at 214-18.

03-183210 and 03-183211. He was convicted and sentenced to 270 days in jail. The offenses occurred on January 30, 2003.²¹

- i. On August 31, 2006, Mr. Lee pleaded guilty to misdemeanor burglary of a motor vehicle in Cause No. 1384939 in the County Criminal Court at Law No. 14 of Harris County, Texas. He was convicted and sentenced to 190 days in jail. The offense occurred on June 21, 2006.²²
- j. On May 27, 2009, Mr. Lee pleaded guilty to credit/debit card abuse, a state jail felony, in Cause No. 1188321 in the 177th District Court in Harris County, Texas. This offense occurred on June 18, 2008. On the same date, he pleaded guilty to aggravated assault with a deadly weapon, a second-degree felony, in Cause No. 1204588. This offense occurred on February 22, 2009. He was convicted on both counts and sentenced to three years in TDCJ for each offense, to be served concurrently.²³
- k. On May 30, 2008, Mr. Lee pleaded guilty to misdemeanor attempted credit/debit card abuse in Cause No. 07CR2331. On the same date, he pleaded guilty to misdemeanor burglary of a vehicle in Cause No. 272496. He was convicted of both charges in the 56th District Court of Galveston County, Texas, and sentenced to 37 days in the Galveston County jail for each offense, to be served concurrently. The offenses occurred on July 21, 2007.²⁴
- l. On November 1, 2012, Mr. Lee pleaded guilty to credit/debit card abuse, a state jail felony, in Cause No. 135824501010 in the 180th District Court of Harris County, Texas. He was convicted and sentenced to four years in TDCJ. The offense occurred on August 2, 2012.²⁵
- m. On March 28, 2013, Mr. Lee pleaded guilty to credit/debit card abuse, a state jail felony, in Cause No. 12-DCR-61356 in the 400th District Court in Fort Bend County, Texas. He was sentenced to six months in TDCJ. The offense occurred on July 13, 2012.²⁶

²¹ Staff Ex. 5 at 220-25.

²² Staff Ex. 2 at 63-66.

²³ Staff Ex. 2 at 70-76.

²⁴ Staff Ex. 4b at 175-83.

²⁵ Staff Ex. 2 at 80-82.

²⁶ Staff Ex. 4b at 198-202.

Documents from the TDCJ Pardons and Parole Division show that Mr. Lee was granted release on parole in October 2015 and was scheduled to remain on parole until no later than October 2016.²⁷

B. Testimony of Lewis Weldon Wright, IV

Mr. Wright is the liaison to the Department's enforcement division, and he acts as the primary contact between the Department's legal department and its agent and adjuster licensing office. He has worked for the Department for 15 years. Prior to that he worked in the insurance industry for 20 years.

Mr. Wright testified that the Department may refer an application for administrative review depending on the applicant's responses to the questions on the application or because of the result of a criminal background check on the applicant. If an application is referred, the Department will attempt to gather additional information from the applicant such as court records, a personal statement regarding any criminal offenses, work history information, and letters of reference.

Mr. Wright explained that the Department has a strenuous application review process because an insurance license confers the authority to conduct insurance transactions, collect funds, and make sure the funds get to the insurance carriers so the coverage in a contract can be established. According to Mr. Wright, extreme harm can occur if there are any issues with that transaction including loss of assets, loss of financial value of assets, and loss of financial compensation. The Department wants to ensure that a licensee has demonstrated honesty, trustworthiness, and reliability so that consumers are protected against potential wrongdoing. Once the Department issues a license, it means that the Department has deemed the licensee to be competent, honest, trustworthy, and reliable.

²⁷ Staff Ex. 2 at 84-88.

In the event of a possible loss, Mr. Wright explained, the primary duty of an insurance adjuster is to contact the policyholder and to represent the insurance carrier in the loss settlement process. This may involve gathering information regarding the claim, transmitting information with a recommendation as to valuation for damage, and facilitating the loss settlement process. Ultimately, the adjuster will deliver any funds that are due under a covered event. This may involve a face-to-face meeting with a policyholder or an on-site visit to inspect the covered property.

According to Mr. Wright, Mr. Lee's criminal history includes 19 convictions for crimes including burglary of a vehicle, credit/debit card abuse, and felony assault, which are classified as crimes of prime importance by the Department. Mr. Wright testified that burglary of a vehicle and credit/debit card abuse are crimes of prime importance because they are directly related to the kind of financial loss that insurance policies are intended to protect consumers against. Additionally, he said, the nature of an insurance transaction is ripe for misconduct that can cause financial loss to an individual because adjuster licensees have access to places like policyholders' homes, recreational vehicles, and automobiles, giving the licensee an increased opportunity to commit similar crimes.

Mr. Wright testified that felony assault is a crime of prime importance that is particularly concerning to the Department because adjuster license holders, who are typically employed by the insurance carriers, may have interactions with policyholders in situations where confrontations could arise because policyholders may be displeased with the outcome after a loss. An adjuster may need to explain policy deductibles or a reduced settlement and needs to communicate the information calmly and professionally.

Mr. Wright discussed the rehabilitative evidence provided to the Department by Mr. Lee and said the Department considered everything that was submitted. Mr. Wright reported that Mr. Lee provided several letters of reference from reputable organizations, a statement on his own behalf, professional certifications, and certificates of completion for different courses. Of the courses Mr. Lee took, Mr. Wright said that none were related to prevention of financial crimes.

Mr. Wright testified that Mr. Lee had a good resume that demonstrates mostly steady employment, and that Mr. Lee has made strides within his current employment.

Mr. Wright reported that the Department thoroughly reviewed Mr. Lee's application and the additional materials he provided. Mr. Wright opined that when viewed as a whole, however, Mr. Lee's rehabilitative evidence does not outweigh the nature, severity, and length of his criminal history, and that the Department should not issue him a license at this time because the risk is too high.

C. Testimony of Mr. Lee

Mr. Lee discussed his criminal history. He did not dispute the facts of his arrests or convictions. He said that he provided the Department with all the court records and other documents they requested. Mr. Lee testified more particularly about the two felony assault offenses and said that although he pleaded guilty to and was convicted of both assault offenses, he did not commit either. According to Mr. Lee, he pleaded guilty on the advice of his attorney because two witnesses were going to tell the same story against him. He denied that he entered anyone's house. He said that he and the other party were standing outside talking, the interaction ended amicably, and he was later informed that someone had called the police and reported that he had a gun. Mr. Lee denied ever having a gun. Mr. Lee said that he never hurt or intended to hurt anyone, but witnesses said he did. He was advised by his lawyer that he would not win his case. For those reasons, he pleaded guilty and was convicted on the assault charges.

Mr. Lee testified that he is raising his four-year-old daughter by himself, and that when he was released from incarceration, he began to change. While incarcerated, he voluntarily completed the Cognitive Intervention Program and the Bridges to Life program. These courses were not court-ordered, and he is grateful he took them because they "opened his eyes" to a lot of different things. He has other children who were disappointed in him, and he had to make up his mind about what kind of life he wanted to live and whether he wanted to be away from his kids and family. He

decided he did not want that life, so when he came home, he got a job driving a truck, then as a safety advisor and ship chandler. According to Mr. Lee, he was handling and depositing large amounts of cash money in that job, and he never had any problems. Mr. Lee testified that on his first day, he was sent out alone and collected close to \$20,000, which he took home with him that night and kept until he went to work the next day. After that, he said, he was one of the best ship chandlers they had. Mr. Lee eventually wanted to earn more money, so he took a class to become a safety technician.

Mr. Lee testified that everything he did is in the past and he no longer looks back. He tries to focus on what he needs to do to stay above water and make sure his daughter is taken care of because he does not want to lose her. Everything he does now, he said, is focused on bettering himself. The day before the hearing, he enrolled at a college for Environmental Health and Safety.

D. Evidence of Additional Training and Letters of Recommendation

Mr. Lee completed professional training programs from the Scaffold Training Institute, 1st Source Adjuster School, and NCCER Construction Site Safety Orientation.²⁸ Mr. Lee provided three letters of recommendation to the Department in support of his application:

1. Dave Johnson, Senior Pastor at Power Source Christian Center, wrote that Mr. Lee has been known to that program for more than 20 years. According to Pastor Johnson, Mr. Lee is known to be trustworthy and there have been no complaints about his commitment to the church program.²⁹
2. Anesia D. Okezie, a family nurse practitioner at the Department of Veterans Affairs, wrote that she was aware of Mr. Lee's criminal history. She described him as "very capable" and said he has a positive outlook on life.³⁰
3. Carmela Walker, MPA, is a United Way Thrive Financial Coach and Coordinator with the Houston Area Urban League. She described Mr. Lee as a dutiful family man and

²⁸ Staff Ex. 2 at 103-05.

²⁹ Staff Ex. 2 at 99.

³⁰ Staff Ex. 2 at 100.

responsible employee with great leadership qualities. Ms. Walker praised his willingness to obtain additional training and said that Mr. Lee's work ethic and disposition are solid.³¹

IV. ANALYSIS

Under Texas Insurance Code section 4005.101(b)(5), the Department may deny a license application if the Department determines that the applicant has engaged in fraudulent or dishonest acts or practices. The Department may also deny a license application if the applicant has been convicted of a felony, as contemplated by Texas Insurance Code section 4005.101(b)(8). Code section 53.021(a) further authorizes denial based on a conviction of "an offense that directly relates to the duties and responsibilities of the licensed occupation." In determining whether to deny a license application based on a person's criminal history, the Department will consider the factors specified in Code sections 53.022 and 53.023, as set out above.

Mr. Lee has been convicted of felony assault as well as credit/debit card abuse, a state jail felony that also involves fraudulent or dishonest acts or practices. Mr. Lee has also been convicted multiple times of misdemeanor burglary of a vehicle. The Department has already considered the factors in Code section 53.022 in determining that these three types of offenses – felony assault, credit/debit card abuse, and burglary – are directly related to the occupation of an insurance adjuster and are considered crimes of prime importance by the Department.

Turning to the factors in Code section 53.023, the evidence established that Mr. Lee has 19 criminal convictions spanning 16 years, including eight felony convictions. Mr. Lee was an adult at the time of his first conviction in 1996, so his numerous offenses were not youthful indiscretions. At the time of the hearing, it had been nearly 10 years since Mr. Lee last offended, and he was released from custody in 2015. Mr. Lee has been steadily employed since then, and he has been responsible for important duties such as training and handling large amounts of company funds, without incident. He is a single parent supporting a young daughter, and he voluntarily took classes

³¹ Staff Ex. 2 at 101.

and participated in programs both while incarcerated and afterwards. The letters of support Mr. Lee provided to the Department cast him in a positive light and he was characterized as trustworthy and responsible, but he did not submit any letters from the employers he has worked for since his release.

Mr. Lee is making strides toward rehabilitation, and he should be commended for the changes he has made. The ALJ finds, however, that the evidence Mr. Lee provided in support of his application is not sufficient to overcome the nature, seriousness, and extent of his criminal history. This period of good conduct, more than six years in length, is noteworthy but is still a relatively short time when compared to his extensive criminal history. Over 16 years, beginning when he was well into adulthood, Mr. Lee was convicted 19 separate times. Seventeen convictions were for the offenses of burglary of a vehicle, credit/debit card abuse, and felony assault. These offenses must be given significant weight in a licensure determination as crimes of prime importance and crimes that relate to the duties and responsibilities of an insurance adjuster, an occupation that may give Mr. Lee access to policyholders' real and personal property and require him to interact with the public in contentious situations.

On balance, the evidence of Mr. Lee's current fitness for licensure is outweighed by the serious and extensive nature of his criminal history, and its implications for his ability to carry out the duties and responsibilities of a Department licensee. Accordingly, the ALJ concludes that Mr. Lee has not shown his fitness for licensure, and his application for an Adjuster All Lines license should be denied at this time.

V. FINDINGS OF FACT

1. On May 11, 2021, Roderick Craig Lee applied to the Texas Department of Insurance (Department) for an Adjuster All Lines license.
2. On June 3, 2021, the Department proposed to deny Mr. Lee's application for an Adjuster All Lines license based on his criminal history.

3. Mr. Lee timely requested a hearing to challenge the denial.
4. On December 21, 2021, staff (Staff) of the Department issued a Notice of Hearing on the denial of Mr. Lee's application. 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 either a short, plain statement of the factual matters asserted or an attachment that incorporates by reference the factual matters asserted in the complaint or petition filed with the state agency.
5. On March 22, 2022, Administrative Law Judge (ALJ) Susan Rodriguez of the State Office of Administrative Hearings (SOAH) convened a hearing on the merits via the Zoom videoconference platform. Attorney Stephanie Daniels represented Staff. Mr. Lee appeared and represented himself. The hearing concluded and the record closed that day.
6. Mr. Lee has the following criminal history:
 - a. On August 12, 1996, Mr. Lee pleaded nolo contendere to misdemeanor assault in Cause No. 9622853 in County Criminal Court at Law No. 8 of Harris County, Texas. He was convicted and sentenced to four days in jail. The offense occurred on May 23, 1996.
 - b. On June 8, 1998, Mr. Lee pleaded guilty to misdemeanor burglary of a vehicle in Cause No. 9811901 in County Criminal Court at Law No. 15 in Harris County, Texas. He was convicted and sentenced to 100 days in jail. The offense occurred on March 23, 1998.
 - c. On April 22, 1999, Mr. Lee pleaded guilty to misdemeanor driving while license suspended in Cause No. 9908220 in County Criminal Court at Law No. 15 in Harris County, Texas. He was convicted and sentenced to three days in jail. The offense occurred on February 24, 1999.
 - d. On October 11, 2001, Mr. Lee pleaded guilty to two charges of misdemeanor burglary of a vehicle in Cause Nos. 1077241 and 1077242 in County Criminal Court at Law No. 5 in Harris County, Texas. He was convicted and sentenced to 100 days in jail. The offenses occurred on September 8, 2001.
 - e. On November 27, 2001, Mr. Lee pleaded guilty to misdemeanor burglary of a vehicle in Cause No. MA0070537 in County Criminal Court No. 8 of Dallas County, Texas. He was convicted and sentenced to 120 days in jail. The offense occurred on February 5, 2000.
 - f. On September 13, 2002, Mr. Lee pleaded guilty to aggravated assault of a family member, a second-degree felony, in Cause No. 902584 in the 208th District Court of Harris County, Texas. The offense occurred on February 13, 2002. The court

deferred adjudication of Mr. Lee's guilt and he was placed on community supervision for five years. On August 26, 2003, Mr. Lee was adjudicated guilty after he violated the terms of his probation and was sentenced to serve two years in the Texas Department of Criminal Justice (TDCJ).

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- h. On July 16, 2004, Mr. Lee pleaded guilty to two counts of burglary of a vehicle in County Court at Law No. 1 of Montgomery County, Texas, in Cause Nos. 03-183210 and 03-183211. He was convicted and sentenced to 270 days in jail. The offenses occurred on January 30, 2003.
- i. On August 31, 2006, Mr. Lee pleaded guilty to misdemeanor burglary of a motor vehicle in Cause No. 1384939 in the County Criminal Court at Law No. 14 of Harris County, Texas. He was convicted and sentenced to 190 days in jail. The offense occurred on June 21, 2006.
- j. On May 27, 2009, Mr. Lee pleaded guilty to credit/debit card abuse, a state jail felony, in Cause No. 1188321 in the 177th District Court in Harris County, Texas. This offense occurred on June 18, 2008. On the same date, he pleaded guilty to aggravated assault with a deadly weapon, a second-degree felony, in Cause No. 1204588. This offense occurred on February 22, 2009. He was convicted on both counts and sentenced to three years in TDCJ for each offense, to be served concurrently.
- k. On May 30, 2008, Mr. Lee pleaded guilty to misdemeanor attempted credit/debit card abuse in Cause No. 07CR2331. On the same date, he pleaded guilty to misdemeanor burglary of a vehicle in Cause No. 272496. He was convicted of both charges in the 56th District Court of Galveston County, Texas, and sentenced to 37 days in the Galveston County jail for each offense, to be served concurrently. The offenses occurred on July 21, 2007.
- l. On November 1, 2012, Mr. Lee pleaded guilty to credit/debit card abuse, a state jail felony, in Cause No. 135824501010 in the 180th District Court of Harris County, Texas. He was convicted and sentenced to four years in TDCJ. The offense occurred on August 2, 2012.
- m. On March 28, 2013, Mr. Lee pleaded guilty to credit/debit card abuse, a state jail felony, in Cause No. 12-DCR-61356 in the 400th District Court in Fort Bend County, Texas. He was sentenced to six months in TDCJ. The offense occurred on July 13, 2012.

7. Burglary of a vehicle, credit/debit card abuse, and felony assault are crimes of such a serious nature that the Department considers them to be of prime importance in determining whether to issue a license.
8. It has been approximately 10 years since Mr. Lee last offended. Mr. Lee was released from incarceration in 2015. He remained on parole until October 2016 and complied with all terms and conditions of his release.
9. Mr. Lee completed coursework and programs both during and after incarceration as part of his rehabilitative efforts, including the Bridges to Life program and the Cognitive Intervention Program. He has also completed professional training programs from the Scaffold Training Institute, 1st Source Adjuster School, and NCCER Construction Site Safety Orientation.
10. Mr. Lee has maintained steady employment since his release. He has worked as a truck driver, as a safety advisor and ship chandler for Pelican Marine, and as a safety technician for Thorpe Plant Services.
11. Mr. Lee is raising his young daughter as a single parent.
12. Three people who know Mr. Lee wrote letters of support, describing him as trustworthy and responsible.

VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, .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. Mr. Lee received timely and sufficient notice of the hearing. Tex. Gov't Code §§ 2001.051-.052.; Tex. Ins. Code § 4005.104(b).
4. Staff had the burden of proving its basis for denying Mr. Lee's license application, while Mr. Lee had the burden of proving his fitness to be licensed despite his criminal history or fraudulent or dishonest conduct. 1 Tex. Admin. Code § 155.427.
5. The standard of proof is by a preponderance of the evidence. *Granek v. Tex. St. Bd. of Med. Examin'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

6. The Department may deny a license if the Department determines that the applicant has engaged in fraudulent or dishonest acts or practices or has been convicted of a felony. Tex. Ins. Code § 4005.101(b)(5), (8).
7. The Department may deny Mr. Lee's license application because he has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation. Tex. Occ. Code § 53.021(a)(1).
8. The Department has determined that certain crimes are of such a serious nature that they are of prime importance in determining fitness for licensure. These crimes include felony assault, burglary, and any offense for which fraud, dishonesty, or deceit is an essential element. 28 Tex. Admin. Code § 1.502(e)(1), (e)(4)(B), (e)(4)(E).
9. The Department may deny Mr. Lee's license application because he has been convicted of a felony. Tex. Ins. Code § 4005.101(b)(8); 28 Tex. Admin. Code § 1.502(d).
10. The Department will consider the factors listed in Texas Occupations Code §§ 53.022 and 53.023 in determining whether to issue a license to an applicant despite a criminal offense or fraudulent or dishonest conduct and will not issue a license unless the mitigating factors outweigh the serious nature of the criminal offense or fraudulent or dishonest conduct when viewed in the light of the occupation being licensed. 28 Tex. Admin. Code § 1.502(f), (h).
11. The preponderance of the evidence shows that Mr. Lee is not currently fit to perform the duties and discharge the responsibilities of a licensed insurance adjuster. Tex. Occ. Code § 53.023.
12. The Department should deny Mr. Lee's application for a license.

SIGNED May 17, 2022.


SUSAN RODRIGUEZ

ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS

2023 7983

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

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