

No. 2023-8160

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

Date: 8/31/2023

Subject Considered:

Texas Department of Insurance v.
Jacqueline Devonne Anderson

SOAH Docket No. 454-23-05454.C

General Remarks and Official Action Taken:

The subject of this order is Jacqueline Devonne Anderson's application for an adjuster all-lines license. This order denies Ms. Anderson's 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 Texas Department of Insurance deny Ms. Anderson's application for an adjuster all-lines license. A copy of the proposal for decision is attached as Exhibit A.

Legal Authority for Changes to Proposal for Decision

The legal authority for the changes to the proposal for decision made in this order is Tex. Gov't Code § 2001.058(e)(3), which provides that "[a] state agency may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative judge, only if the agency determines . . . that a technical error in a finding of fact should be changed."

Analysis

Errors in the Proposal for Decision

On page 8, the proposal for decision lists criminal counts to which Ms. Anderson pleaded guilty on November 8, 2004. The proposal for decision says Ms. Anderson pleaded guilty to 24 separate criminal counts; however, it only specifies 18 criminal counts. The proposal for decision cites TDI Ex. 2 at 40-42 as the source for this information. TDI Ex. 2 does list 24 criminal counts at Bates Number 40, including two counts of misdemeanor giving police false name/info (counts 10 and 12) and four counts of second-degree felony forgery (counts 20–23) that are not specified in the proposal for decision.

Finding of Fact No. 14 in the proposal for decision repeats the information provided on page 8 of the proposal for decision, noting 24 separate criminal counts, but listing only 18. Because the proposal for decision correctly notes that Ms. Anderson pleaded guilty to 24 criminal counts, the failure to specify six of the criminal counts is a technical error corrected by this order.

As proposed, Finding of Fact No. 14 states:

On November 8, 2004, in Cause No. 04CR00863-A, in the Superior Court of Douglas County, Georgia, Respondent pled guilty to twenty-four separate criminal counts: two counts of felony financial identity fraud, four counts of first-degree felony forgery, seven counts of second-degree felony forgery, two counts theft by receiving stolen property, one count misdemeanor possession/purchase less than one ounce marijuana, one count misdemeanor driving without a license, and one count misdemeanor reckless driving. Respondent was sentenced to ten years confinement for counts one, thirteen, and sixteen through eighteen; five years confinement for counts two through eight and nineteen through twenty-three; and twelve months confinement on counts nine, eleven, fourteen, fifteen, and twenty-four. The sentences were set to run concurrently. Respondent was ordered to four years of confinement with the remainder time to be served on probation. Respondent was further ordered to by a fine of \$1,000 for count one.

As adopted by this order, Finding of Fact No. 14 is corrected to state:

On November 8, 2004, in Cause No. 04CR00863-A, in the Superior Court of Douglas County, Georgia, Respondent pled guilty to twenty-four separate criminal counts: two counts of felony financial identity fraud, four counts of first-

degree felony forgery, eleven counts of second-degree felony forgery, two counts theft by receiving stolen property, two counts misdemeanor giving police false name/info, one count misdemeanor possession/purchase less than one ounce marijuana, one count misdemeanor driving without a license, and one count misdemeanor reckless driving. Respondent was sentenced to ten years confinement for counts one, thirteen, and sixteen through eighteen; five years confinement for counts two through eight and nineteen through twenty-three; and twelve months confinement on counts nine, eleven, fourteen, fifteen, and twenty-four. The sentences were set to run concurrently. Respondent was ordered to four years of confinement with the remainder time to be served on probation. Respondent was further ordered to by a fine of \$1,000 for count one.

Findings of Fact

1. Findings of Fact No. 1–13 and 15–24 as contained in Exhibit A are adopted and incorporated by reference into this order.
2. In place of Finding of Fact No. 14 as proposed in Exhibit A, the following finding of fact is adopted:

On November 8, 2004, in Cause No. 04CR00863-A, in the Superior Court of Douglas County, Georgia, Respondent pled guilty to twenty-four separate criminal counts: two counts of felony financial identity fraud, four counts of first-degree felony forgery, eleven counts of second-degree felony forgery, two counts theft by receiving stolen property, two counts misdemeanor giving police false name/info, one count misdemeanor possession/purchase less than one ounce marijuana, one count misdemeanor driving without a license, and one count misdemeanor reckless driving. Respondent was sentenced to ten years confinement for counts one, thirteen, and sixteen through eighteen; five years confinement for counts two through eight and nineteen through twenty-three; and twelve months confinement on counts nine, eleven, fourteen, fifteen, and twenty-four. The sentences were set to run concurrently. Respondent was ordered to four years of confinement with the remainder time to be served on probation. Respondent was further ordered to by a fine of \$1,000 for count one.


COMMISSIONER'S ORDER
TDI v. Jacqueline Devonne Anderson
SOAH Docket No. 454-23-05454.C
Page 4 of 4

Conclusions of Law

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

Order

It is ordered that Jacqueline Devonne Anderson's application for an adjuster all-lines license is denied.

DocuSigned by:

FC5D7EDDFFB4F8... _____
Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

DocuSigned by:

5DAC5618BBC74D4... _____
Jessica Barta, General Counsel

DocuSigned by:

27ADF3DA5BAF4B7... _____
Justin Beam, Assistant General Counsel

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

—
**TEXAS DEPARTMENT OF INSURANCE,
PETITIONER**

v.

**JACQUELINE DEVONNE ANDERSON,
RESPONDENT**

PROPOSAL FOR DECISION

The Texas Department of Insurance (Department) seeks to deny the application of Jacqueline Devonne Anderson (Respondent) for an adjuster all-lines license based on her criminal history. After considering the evidence and applicable law, the Administrative Law Judge (ALJ) recommends the Department deny Respondent's license application.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

On August 26, 2021, Respondent filed an application for an adjuster all-lines license with the Department. On June 17, 2022, the Department proposed to deny the application based on Respondent’s criminal history. Respondent timely appealed the proposed denial, and this matter was referred to the State Office of Administrative Hearings (SOAH) for a hearing on the merits.

Notice and jurisdiction were not disputed and are set out in the Findings of Fact and Conclusions of Law below. The hearing in this case was held by videoconference on May 22, 2023, before SOAH ALJ Michelle Kallas. The Department was represented by staff attorney Jeannie Ricketts. Respondent represented herself at the hearing. The hearing concluded the same day. The record closed on June 5, 2023, to allow for the e-filing of the admitted exhibits and delivery of the hearing transcript to SOAH.

II. APPLICABLE LAW

To act as an adjuster in this state, a person must hold a license issued by the Department. The Department may deny a license application if the applicant made an intentional material misstatement on the license application.¹ The Department may also deny a license application if the applicant has engaged in fraudulent or dishonest acts, has been convicted of a felony, or has been convicted of a crime directly related to the duties and responsibilities of the licensed occupation.² For

¹ Tex. Ins. Code § 4005.101(b)(2).

² Tex. Ins. Code § 4005.101(b)(5), (8); Tex. Occ. Code § 53.021(a)(1).

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.³

Code section 53.022 sets forth the following factors addressing 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;
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.⁴

The Department shall not issue a license if an applicant has committed a felony or engaged in fraudulent or dishonest acts, unless the Department finds that the mitigating factors outweigh the serious nature of the criminal offense when

³ 28 Tex. Admin. Code § 1.502(h).

⁴ *See also* 28 Tex. Admin. Code § 1.502(h)(1).

viewed in light of the occupation being licensed.⁵ In determining the fitness to perform the duties and responsibilities of the licensed occupation of a person who has been convicted of a crime, the Department must consider the following mitigating factors set out in Code section 53.023:

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 prior to and following the criminal activity;
5. evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following 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 present fitness, including letters of recommendation.⁶

In accordance with the requirements of Code section 53.025, the Department has developed guidelines relating to what it will consider in determining whether to grant a license if the applicant has been convicted of a crime. The crimes the Department considers to be of such a serious nature that they are of prime importance in determining fitness for licensure includes any

⁵ 28 Tex. Admin Code 1.502(f).

⁶ *See also* 28 Tex. Admin. Code § 1.502(h)(2).

offense with the essential elements of fraud, dishonesty, or deceit; theft; and the manufacture, delivery or possession with intent to manufacture or deliver a controlled substance or dangerous drug.⁷

The applicant is responsible, to the extent possible, for obtaining and providing the Department with the evidence of fitness discussed above.⁸ Additionally, the 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, fines, and restitution orders in any criminal case in which the applicant has been convicted.⁹

Staff has the burden of producing evidence to show that Respondent's application should be denied because she has a criminal history that supports denial of the license.¹⁰ Once Staff produces such evidence, the burden shifts to Respondent to show that she is fit for a license despite her criminal history.¹¹

III. EVIDENCE

Staff offered four exhibits, which were admitted, including Respondent's application, information the Department obtained regarding Respondent's criminal

⁷ 28 Tex. Admin. Code § 1.502(e)(1), (4)(F)-(G).

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

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

¹⁰ 1 Tex. Admin. Code § 155.427.

¹¹ Tex. Occ. Code § 52.023(b); 28 Tex. Admin. Code § 1.502(h)(3).

convictions, and letters of recommendation. Staff also presented testimony from Lewis Wright, an Administrative Review Liaison for the Department. Respondent testified on her own behalf. Respondent did not offer any documents or testimony from other witnesses during the hearing.

A. RESPONDENT’S CRIMINAL HISTORY

Respondent committed multiple criminal offenses, all, but a few, felonies, when she was between twenty-two and thirty-seven years old.¹² Respondent served all her sentences and completed all conditions of parole. The following is a summary of Respondent’s relevant criminal history:

- On January 11, 2001, in Cause No. CC-2000-00-008282, in the District Court of Mobile County, Alabama, Respondent was convicted of third-degree felony possession of a forged instrument. Respondent was sentenced to one year in jail, suspended to two years formal probation; she was also ordered to pay a \$250 fine, \$213 in restitution, \$50 to a victim’s compensation fund, and \$496 in court costs.¹³
- On September 19, 2003, in Cause No. CC-2002-003686, Respondent pled guilty to the offense of felony possession of a forged instrument (2nd) in the Circuit Court of Mobile County, Alabama. Respondent was sentenced to five years in the state penitentiary, suspended for five years formal probation. Respondent served sixty days in jail. The court ordered

¹² Respondent had several additional arrests not resulting in convictions. As such, those arrests will not be individually discussed in this Proposal for Decision.

¹³ TDI Ex. 2 at 62-65.

Respondent to pay \$400 in attorney fees, \$367 in court costs, and \$50 to a victim's compensation fund.¹⁴

- On September 19, 2003, in Cause No. CC-2003-000452, Respondent pled guilty to the offense of felony possession of a cocaine in the Circuit Court of Mobile County, Alabama. Respondent was sentenced to five years in the state penitentiary, suspended for five years formal probation (to run concurrent with Cause No. CC-2002-003686). Respondent served sixty days in jail. The court ordered Respondent to pay a drug-related fine of \$1,060, \$311 in court costs, and \$50 to a victim's compensation fund. Respondent was also ordered that Respondent be evaluated for substance abuse.¹⁵
- On July 1, 2003, in Cause No. 2003-CR-1130I, in the Superior Court of Rockdale County, Georgia, Respondent pled guilty to two counts of first-degree felony forgery, one count of second-degree felony forgery, misdemeanor theft by deception, and misdemeanor giving false name or address to law enforcement. For the felony counts, Respondent was sentenced to three years confinement to serve six months, suspended upon time served, with the balanced served on probation. For the misdemeanor counts, Respondent was sentenced to twelve months probation. Respondent was ordered to pay a fine of \$500.¹⁶
- On March 26, 2004, in Cause No. CC-2003-004394, in the Circuit Court of Mobile County, Alabama, Respondent pled guilty to first-degree felony identity theft. Respondent was sentenced to five years in the state penitentiary, suspended for five years formal probation (to run concurrent with Cause No. CC-2002-003686). Respondent was ordered to serve ninety days in jail with sixty days

¹⁴ TDI Ex. 2 at 80-84.

¹⁵ TDI Ex. 2 at 43-47.

¹⁶ TDI Ex. 2 at 33-39.

credit for time served. Respondent was further ordered to pay \$387 in court costs and \$50 to a victim's compensation fund.¹⁷

- On October 4, 2004, the Georgia Department of Corrections Probation Division revoked Respondent's probation in Cause No. 2003-CR-1130I when Respondent was arrested for a felony forgery offense by the Douglasville Police Department. Respondent was ordered to serve fourteen months and twenty-seven days in a correctional facility.¹⁸
- On November 8, 2004, in Cause No. 04CR00863-A, in the Superior Court of Douglas County, Georgia, Respondent pled guilty to twenty-four separate criminal counts: two counts of felony financial identity fraud, four counts of first-degree felony forgery, seven counts of second-degree felony forgery, two counts theft by receiving stolen property, one count misdemeanor possession/purchase less than one ounce marijuana, one count misdemeanor driving without a license, and one count misdemeanor reckless driving. Respondent was sentenced to ten years confinement for counts one, thirteen, and sixteen through eighteen; five years confinement for counts two through eight and nineteen through twenty-three; and twelve months confinement on counts nine, eleven, fourteen, fifteen, and twenty-four. The sentences were set to run concurrently. Respondent was ordered to four years of confinement with the remainder time to be served on probation. Respondent was further ordered to by a fine of \$1,000 for count one.¹⁹
- On June 11, 2011, in Cause No. CC-2011-005172, in the Circuit Court of Mobile County, Alabama, Respondent was charged with driving under the influence (DUI). Respondent was ordered to complete a court referral office (CRO) deferred prosecution program during which she was required to: attend the

¹⁷ TDI Ex. 2 at 56-60.

¹⁸ TDI Ex. 2 at 71-72.

¹⁹ TDI Ex. 2 at 40-42.

CRO program for one year; pay \$100 for a first evaluation and drug test; participate in alcohol and/or substance evaluation; and complete DUI school and an AA program. Respondent completed these requirements, and the matter was dismissed on January 23, 2013.²⁰

- On August 3, 2015, a grand jury seated in the Second Judicial District Court of Harrison County, Mississippi, indicted Respondent for felony bad check. On October 6, 2015, in Capias No. B2402-2015-295, a warrant was issued for Respondent's arrest with Harrison County, Mississippi requesting Mobile County, Alabama authorities arrest and hold Respondent for extradition. The charge in this matter was later dropped when Respondent paid the debt at issue.²¹

B. LEWIS WRIGHT TESTIMONY

Mr. Wright has worked for the Department for fifteen years. He reviews license applications submitted to the Department that contain concerning responses to questions for the initial application processor. One such concern would be an identified criminal history for the applicant. Mr. Wright reviews staff findings along with the applicable statutes in making a recommendation on the granting of the application. He testified that the core mission is to protect Texas consumers and ensure that a license holder is honest, trustworthy, and reliable. According to Mr. Wright, the insurance industry is complex in its regulations and lends itself to the possibility of misconduct such as fraudulent activities, embezzlement, and loss of money. Because of this, it is imperative that those

²⁰ TDI Ex. 2 at 73-76.

²¹ TDI Ex. 3.

individuals licensed by the Department are reliable and trustworthy so that the public feels safe with their insurance transactions.

Mr. Wright testified that Respondent applied for an adjuster all-lines license on August 26, 2021. Mr. Wright explained that an adjuster represents the insurance company in the loss settlement process including assessing damages, assigning dollar amounts for damages, and deciding whether a claim should be paid. According to Mr. Wright, his division received Respondent's application because there were issues with Respondent's application, namely, her criminal convictions. Mr. Wright testified that Respondent initially failed to disclose her criminal history.²² As the application process progressed, the Department learned of her criminal history during a routine background check. The Department discovered that Respondent had multiple felony and misdemeanor convictions, several involving forgery, identity theft, or other fraudulent activities. Once the Department learned of the convictions, Respondent was requested to provide a statement regarding the convictions along with related court documents and letters of reference. Respondent provided the requested documents to the Department.²³

Once the Department received the requested information, Mr. Wright reviewed it under the guidelines of Code section 53.023 and Texas Administrative Code section 1.502 to determine whether or not the license should be granted. Mr. Wright expressed concern regarding the frequency and nature of Respondent's

²² See TDI Ex. 2 at 124. On her application, Respondent answered both questions regarding prior criminal convictions in the negative.

²³ Mr. Wright noted that Respondent failed to include any information regarding the August 2015 indictment for felony bad check.

criminal convictions. He testified that Respondent's criminal activity spanned a period of around fifteen years and that nearly all the crimes committed were felonies involving elements of deceit, making them of prime importance when making a licensing decision. He further testified the types of crimes Respondent committed are directly related to the occupation of an adjuster as the insurance business deals with financial instruments, such as checks, that must be reliable and trustworthy.

Mr. Wright also addressed Respondent's mitigating documentation. He found her written statement to be lacking in that she did not specifically address the criminal convictions or take responsibility for the crimes committed. He also pointed out that Respondent claimed to not have been in criminal trouble for eighteen years, yet her criminal history refuted this statement with offenses committed after 2011. Mr. Wright testified that her resume established that she had been employed in the past and was employed as a nurse aide at the time of her application. He further testified that Respondent's letters of reference cast Respondent in a positive light; however, he noted that none of them mentioned any knowledge of Respondent's criminal history.

Mr. Wright found that Respondent's initial failure to identify her criminal history on the application was of great concern for the Department as it appeared to be an intentional misrepresentation on the application. Additionally, he determined that Respondent's mitigating documents failed to outweigh the frequency and seriousness of her past offenses. Based on this determination, Mr. Wright proposed the denial of Respondent's license.

C. RESPONDENT’S STATEMENTS AND TESTIMONY

In her response to the Department, Respondent detailed the various jobs she has held over the years.²⁴ She described herself as a respectful and honest workaholic, willing to take on any job necessary. She indicated that she currently owns a hair braiding business. Her resume outlined the following employment history:

- August 2017-April 2018: Best IRS Service and Casualty, Adjuster²⁵
- September 2019-February 2020: Pilot Catastrophe Service, accident claims adjuster²⁶
- April 2020-December 2021: Tesha’s Healthcare Staffing, certified nurse aide
- February 2022-March 2022: Favorite Healthcare Staffing, certified nurse aide

Respondent’s response also touched on her criminal history. She briefly addressed some of the criminal offenses. Many of the offenses addressed were for incidents for the Department was not concerned as there was no conviction for these offenses. Regarding the incidents where Respondent was convicted, she did not provide any information explaining the circumstances surrounding those convictions. Respondent admitted making mistakes but asserted that she has learned from those mistakes. She claimed that she is no longer the person who

²⁴ TDI Ex. 2 91-96, 105.

²⁵ Best IRS Service was located in Mobile, Alabama.

²⁶ Pilot Catastrophe Service was located in Mobile, Alabama.

committed those crimes. Following the death of her son while she was incarcerated, she made the choice to not commit any other crimes. She attended rehabilitation classes and received a Motivation to Change certificate. She was released from prison in 2008. She claimed that she incorrectly answered the question about her criminal history because the convictions were more than eighteen years old and most applications only ask for convictions within a certain timeframe, i.e., five, seven, or ten years.

At the hearing, Respondent admitted that she failed to answer on the application that she was a convicted felon. Respondent claimed that she was not trying to hide her convictions. She completed her application in the manner she did based on advice she received from a friend. She was told by the friend to answer the question regarding convictions as “no” and rely on the Department to provide her with the information she needed to look further into the old convictions. Once the Department provided her with the dates of her convictions, she proceeded to find the necessary information to provide it to the Department.

Respondent did not testify regarding the circumstances surrounding her convictions. She asked not to be judged on her past. She testified that she is now forty-five years old and received her GED. She works in nursing assistance and is dependable.

D. LETTERS OF RECOMMENDATION

As part of her application, Respondent submitted three letters of reference from individuals who were familiar with Respondent. They generally described

Respondent as dependable, responsible, hardworking, trustworthy, loyal, and an asset to the community. None of the letters addressed that the persons writing the letters were aware of Respondent's past criminal misconduct.

IV. ANALYSIS AND RECOMMENDATION

The Department may deny a license application if an applicant intentionally makes a material misstatement on the application.²⁷ An applicant's criminal conviction history is material to the Department's determination of suitability for a license. Respondent admitted that she failed to disclose her criminal convictions on her license application. While Respondent's actions may have been based on the questionable advice of a friend, Respondent made a conscious decision to exclude information that she had prior criminal convictions from her application and wait for the Department to let her know what information she needed to provide regarding those convictions. This violation, alone, is cause for the Department to deny her application. Respondent should have been truthful in her application from the start. It was not for the Department to let her know, after the fact, what criminal history information she was responsible for providing. Therefore, Respondent's license should be denied on this basis.

Additionally, the Department may deny a license application if the Department determines that the applicant has committed a felony or has engaged in fraudulent or dishonest acts or practices.²⁸ It is undisputed that from 2001 to 2015, Respondent committed multiple felonies and misdemeanors, most of which

²⁷ Tex. Ins. Code § 4005.101(b)(2).

²⁸ Tex. Ins. Code § 4005.101(b)(5), (8); 28 Tex. Admin. Code § 1.502(e)(1), (4)(F)-(G).

included elements of fraud and/or dishonesty. Therefore, pursuant to 28 Texas Administrative Code section 1.502(h), consideration must be given to the factors listed in Code sections 53.022 and .023, set out above, in determining whether to grant Respondent's adjuster license application.

Considering the factors set forth in Code section 53.022, the evidence established that Respondent was convicted of several serious offenses, felonies and misdemeanors, that are directly related to the profession of an insurance adjuster. Respondent's crimes involved possession of forged instruments, forgery, theft by deception, identity theft, and financial identity fraud. As described by Mr. Wright, insurance adjusters deal with financial transactions between insurance companies and consumers making them susceptible to fraud and other criminal endeavors. Given that Respondent's past crimes involve forgery of instruments and fraud, her working in an industry where she has access to financial instruments may offer an opportunity to engage in such offenses in the future. Therefore, crimes such as the ones committed by Respondent are of prime importance to the Department and directly related the occupation of an insurance adjuster.²⁹

Turning to the factors in Texas Occupations Code Section 53.023, the evidence established that Respondent's criminal offenses are both serious and extensive with her criminal activity encompassing seven convictions involving elements of forgery, one felony cocaine possession conviction, one felony identity theft conviction, and six misdemeanor convictions, two of which involved elements

²⁹ See 28 Tex. Admin. Code § 1.502(e)(1), (4)(F)-(G).

of theft.³⁰ Of great concern, is Respondent's reoffending with new forgery offenses while on probation for prior forgery offenses resulting in the revocation of Respondent's probation and subsequent incarceration.

Respondent, who is now forty-five years old, was twenty-two years old when she received her first conviction in 2001. In 2008, Respondent was released from prison. Respondent remained crime free until June 2011, when she was charged with DUI. For this offense, Respondent was ordered to participate in a court referral program. Upon completion of the program, the DUI charge was dismissed. Then, at thirty-seven years old, Respondent was indicted for felony bad check, another crime involving dishonesty. This charge was ultimately dismissed when Respondent paid back the amount at issue. Other than the parole revocation, the Department provided no evidence that Respondent failed to comply with any court requirements or pay any court ordered fines.³¹ Respondent has now been crime free for eight years. While Respondent's last offense was ultimately dismissed, it shows that there was a propensity to engage in activities similar to those she committed in her past. Respondent was an adult at the time of her convictions and subsequent offenses, so her numerous offenses cannot be considered youthful indiscretions. Therefore, the factors set forth in Code section 53.023 (2) and (3) also weigh against Respondent's suitability for a license.

³⁰ Tex. Occ. Code § 53.023(a)(1).

³¹ Tex. Occ Code § 53.023(a)(6).

To mitigate her criminal history, Respondent provided information regarding her work history, rehabilitation, and letters of recommendation.³² Respondent did not provide any employment history for 2008 through 2017 and provided a sporadic history for 2017-2022. She testified that she now has her own hair-braiding business and works as a nursing assistant. However, she provided no information regarding the operation of her business or for whom she works with as a nursing assistant. While her work history fails to weigh in her favor, Respondent did provide a certificate to show she participated in a rehabilitation class and letters of reference that show is dependable, hardworking, and trustworthy.

Ultimately, Respondent has the burden of proving fitness to be licensed as an insurance adjuster despite her criminal history. Respondent is making strides toward rehabilitation and should be commended for the changes she has made. However, after considering the applicable factors outlined above, Respondent has not yet demonstrated that she is fit for licensure at this time. Therefore, the ALJ finds that the mitigating factors do not outweigh the nature, seriousness, and extent of her criminal offenses.

Accordingly, the ALJ recommends that Respondent's application for an adjuster all-lines license should be denied at this time. In support of this recommendation, the ALJ makes the following findings of fact and conclusions of law.

³² Tex. Occ. Code § 53.023(a)(4)-(5), (7).

V. FINDINGS OF FACT

1. On August 26, 2021, Jacqueline Devonne Anderson (Respondent) applied for an adjuster all-lines license with the Texas Department of Insurance (Department).
2. On June 17, 2022, the Department proposed to deny her application.
3. Respondent requested a hearing to challenge the denial.
4. On December 14, 2022, the Department issued an amended notice of hearing on the denial of Respondent's application.
5. The amended 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.
6. The hearing in this case was held by videoconference on May 22, 2023, before Administrative Law Judge Michelle Kallas with the State Office of Administrative Hearings (SOAH). Attorney Jeannie Ricketts represented the Department. Respondent represented herself. The hearing concluded that day, and the record closed on June 5, 2023, following the e-filing of the admitted exhibits and submission of the transcript to SOAH.
7. Respondent failed to report that she had felony and misdemeanor convictions on her license application.
8. On January 11, 2001, in Cause No. CC-2000-00-008282, in the District Court of Mobile County, Alabama, Respondent was convicted of third-degree felony possession of a forged instrument. Respondent was sentenced to one year in jail, suspended to two years formal probation and ordered to pay a \$250 fine, \$213 in restitution, \$50 to a victim's compensation fund, and \$496 in court costs.

9. On September 19, 2003, in Cause No. CC-2002-003686, Respondent pled guilty to the offense of felony possession of a forged instrument (2nd) in the Circuit Court of Mobile County, Alabama. Respondent was sentenced to five years in the state penitentiary, suspended for five years formal probation. Respondent served sixty days in jail. The court ordered Respondent to pay \$400 in attorney fees, \$367 in court costs, and \$50 to a victim's compensation fund.
10. On September 19, 2003, in Cause No. CC-2003-000452, Respondent pled guilty to the offense of felony possession of a cocaine in the Circuit Court of Mobile County, Alabama. Respondent was sentenced to five years in the state penitentiary, suspended for five years formal probation (to run concurrent with Cause No. CC-2002-003686). Respondent served sixty days in jail. The court ordered Respondent to pay a drug-related fine of \$1,060, \$311 in court costs, and \$50 to a victim's compensation fund. Respondent was also ordered that Respondent be evaluated for substance abuse.
11. On July 1, 2003, in Cause No. 2003-CR-1130I, in the Superior Court of Rockdale County, Georgia, Respondent pled guilty to two counts of first-degree felony forgery, one count of second-degree felony forgery, misdemeanor theft by deception, and misdemeanor giving false name or address to law enforcement. For the felony counts, Respondent was sentenced to three years confinement to serve six months, suspended upon time served, with the balanced served on probation. For the misdemeanor counts, Respondent was sentenced to twelve months probation. Respondent was ordered to pay a fine of \$500.
12. On March 26, 2004, in Cause No. CC-2003-004394, in the Circuit Court of Mobile County, Alabama, Respondent pled guilty to first-degree felony identity theft. Respondent was sentenced to five years in the state penitentiary, suspended for five years formal probation (to run concurrent with Cause No. CC-2002-003686). Respondent was ordered to serve ninety days in jail with sixty days credit for time served. Respondent was further ordered to pay \$387 in court costs and \$50 to a victim's compensation fund.
13. On October 4, 2004, The Georgia Department of Corrections Probation Division revoked Respondent's probation in Cause No. 2003-CR-1130I when Respondent was arrested for a felony forgery offense by the

Douglasville Police Department. Respondent was ordered to serve fourteen months and twenty-seven days in a correctional facility.

14. On November 8, 2004, in Cause No. 04CR00863-A, in the Superior Court of Douglas County, Georgia, Respondent pled guilty to twenty-four separate criminal counts: two counts of felony financial identity fraud, four counts of first-degree felony forgery, seven counts of second-degree felony forgery, two counts theft by receiving stolen property, one count misdemeanor possession/purchase less than one ounce marijuana, one count misdemeanor driving without a license, and one count misdemeanor reckless driving. Respondent was sentenced to ten years confinement for counts one, thirteen, and sixteen through eighteen; five years confinement for counts two through eight and nineteen through twenty-three; and twelve months confinement on counts nine, eleven, fourteen, fifteen, and twenty-four. The sentences were set to run concurrently. Respondent was ordered to four years of confinement with the remainder time to be served on probation. Respondent was further ordered to by a fine of \$1,000 for count one.
15. On June 11, 2011, in Cause No. CC-2011-005172, in the Circuit Court of Mobile County, Alabama, Respondent was charged with driving under the influence (DUI). Respondent was ordered to complete a court referral office (CRO) deferred prosecution program during which she was required to: attend the CRO program for 1 year; pay \$100 for a first evaluation and drug test; participate in alcohol and/or substance evaluation; and complete DUI school and an AA program. Respondent completed these requirements, and the matter was dismissed on January 23, 2013.
16. On August 3, 2015, a Grand Jury seated in the Second Judicial District Court of Harrison County, Mississippi, indicted Respondent for felony bad check. On October 6, 2015, in Capias No. B2402-2015-295, a warrant was issued for Respondent's arrest with Harrison County, Mississippi requesting Mobile County, Alabama authorities arrest and hold Respondent for extradition. The charge in this matter was later dropped when Respondent paid the debt at issue.
17. Respondent was released from prison in 2008 and has complied with all her conditions for parole.

18. Respondent's criminal history is serious and extensive with seven convictions involving elements of forgery, one felony cocaine possession conviction, one felony identity theft conviction, and six misdemeanor convictions, two of which involved elements of theft.
19. Many of Respondent's felony convictions are crimes of such a serious nature that the Department considers them to be of prime importance in determining whether to issue a license.
20. Respondent was approximately thirty-seven years old when she committed her most recent offense.
21. Respondent's crimes were committed when Respondent was an adult and are not youthful indiscretions.
22. Respondent established a sporadic work history and currently operates a hair braiding business and participates in nursing assistance.
23. Respondent is described by friends as dependable, hardworking, and trustworthy.
24. Respondent is not fit for licensure by the Department.

VI. CONCLUSIONS OF LAW

1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, .015, 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. Respondent received timely and sufficient notice of hearing. Tex. Gov't Code §§ 2001.051-.052; Tex. Ins. Code § 4005.104(b).
4. The Department had the burden to prove by a preponderance of the evidence that grounds exist to deny Respondent's application. 1 Tex. Admin. Code § 155.427.

5. Respondent had the burden to prove by a preponderance of the evidence that she is fit to perform the duties and discharge the responsibilities of the licensed occupation despite her criminal background. Tex. Occ. Code § 53.023.
6. The Department may deny a license if the applicant makes an intentional material misstatement on the license application. Tex. Ins. Code § 4005.101(b)(2).
7. 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).
8. The Department may deny a license if the applicant 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).
9. 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 any offense for which fraud, dishonesty, or deceit is an essential element; felony theft; and the manufacture, delivery or possession with intent to manufacture or deliver a controlled substance or dangerous drug. 28 Tex. Admin. Code § 1.502(e)(1), (4)(F)-(G).
10. Respondent's felony forgery offenses, felony cocaine possession offense, felony identity theft offense, and misdemeanor offenses involving elements of theft directly relate to the occupation of an insurance adjuster. 28 Tex. Admin. Code § 1.502(e)(1), (4)(F)-(G).
11. The Department will consider the factors listed in Texas Occupations Code sections 53.022 and .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).

12. The preponderance of the evidence shows the Respondent is not currently fit to perform the duties and discharge the responsibilities of a licensed insurance adjuster. Tex. Occ. Code § 53.023.
13. The Department should deny Respondent's application for an adjuster all-lines license.

Signed July 18, 2023.

ALJ Signature:



Michelle Kallas
Presiding Administrative Law Judge

2023-8160

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 77617414
Filing Code Description: Proposal for Decision
Filing Description: Proposal for Decision
Status as of 7/18/2023 10:23 AM CST

Associated Case Party: Texas Department of Insurance

Name	BarNumber	Email	TimestampSubmitted	Status
Whitney Fraser		Whitney.Fraser@tdi.texas.gov	7/18/2023 10:13:49 AM	SENT
Jeannie Ricketts		Jeannie.Ricketts@tdi.texas.gov	7/18/2023 10:13:49 AM	SENT
Texas Department of Insurance		Enforcementgeneral@tdi.texas.gov	7/18/2023 10:13:49 AM	SENT

Associated Case Party: Chief Clerk

Name	BarNumber	Email	TimestampSubmitted	Status
Chief Clerk		ChiefClerk@tdi.texas.gov	7/18/2023 10:13:49 AM	SENT

Associated Case Party: Jacqueline Devonne Anderson

Name	BarNumber	Email	TimestampSubmitted	Status
Jacqueline Devonne Anderson		Jackiea1978@yahoo.com	7/18/2023 10:13:49 AM	SENT