

No. 2025-9078

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

**Date: 01/15/2025**

**Subject Considered:**

Texas Department of Insurance

v.

Mang Hum

SOAH Docket No. 454-24-19762.C

**General Remarks and Official Action Taken:**

The subject of this order is Mang Hum's application for a life agent license. This order denies Mr. Hum'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 (TDI) deny Mr. Hum's application. A copy of the proposal for decision is attached as Exhibit A.

**Findings of Fact**

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

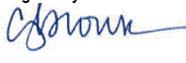
**Conclusions of Law**

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

Commissioner's Order  
TDI v. Mang Hum  
SOAH Docket No. 454-24-19762.C  
Page 2 of 2

**Order**

It is ordered that Mang Hum's application for a life agent license is denied.

Signed by:  
  
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Cassie Brown  
Commissioner of Insurance

Recommended and reviewed by:

Signed by:  
  
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Jessica Barta, General Counsel

Signed by:  
  
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Justin Beam, Chief Clerk

**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

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**TEXAS DEPARTMENT OF INSURANCE,  
PETITIONER  
v.  
MANG HUM,  
RESPONDENT**

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**PROPOSAL FOR DECISION**

The staff (Staff) of the Texas Department of Insurance (Department) seeks to deny Mang Hum's application for a life agent license based on his criminal history. After considering the evidence and applicable law, the Administrative Law Judge (ALJ) recommends that the Department deny Mr. Hum's application.

**I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY**

Notice and jurisdiction were not contested, so those matters are addressed solely in the findings of fact and conclusions of law.

The hearing on the merits was held via Zoom videoconference on September 11, 2024, before ALJ Rebecca Smith. Attorney Erik Huhn appeared and represented Staff. Mr. Hum appeared and represented himself. The hearing concluded that day, and the record closed on October 1, 2024, when the court reporter's transcript was filed with the State Office of Administrative Hearings.

## **II. APPLICABLE LAW**

Mr. Hum applied for a life agent license on August 9, 2023. The Department's rule relating to licensure of people with criminal backgrounds, found at 28 Texas Administrative Code section 1.502, was amended effective September 26, 2023. This Proposal for Decision will refer to the rule in place at the time the application was filed.

The Department considers it very important that license holders and applicants be honest, trustworthy, and reliable,<sup>1</sup> 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 if the applicant has been convicted of a felony<sup>2</sup> or has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.<sup>3</sup>

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<sup>1</sup> 28 Tex. Admin. Code § 1.502(c).

<sup>2</sup> Tex. Ins. Code § 4005.101(b)(8).

<sup>3</sup> Tex. Occ. Code § 53.021(a)(1); *see also* 28 Tex. Admin. Code § 1.502(d).

In determining whether to deny an application based on a person’s criminal history, the Department considers the factors specified in Texas Occupations Code sections 53.022 and 53.023.<sup>4</sup> Texas Occupations Code section 53.022 lists 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;
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.

To guide its decision-making when considering an applicant’s criminal history, the Department has identified certain crimes, enumerated in its substantive rules, that it considers to be of such a serious nature that they are of prime importance in determining fitness for licensure. These crimes include ones with the essential elements of a burglary offense.<sup>5</sup> The Department has determined that the crimes it considers to be of prime importance are directly related to the occupations it licenses.<sup>6</sup>

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<sup>4</sup> 28 Tex. Admin. Code § 1.502(h).

<sup>5</sup> 28 Tex. Admin. Code § 1.502(e)(4)(E).

<sup>6</sup> 28 Tex. Admin. Code § 1.502(e); *see also* Tex. Occ. Code § 53.025.

After determining that a criminal offense directly relates to the occupation, the Department considers the additional factors set out in Texas Occupations Code section 53.023(a):

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.<sup>7</sup>

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.<sup>8</sup> 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, fines, and restitution ordered in any criminal case in which the applicant has been convicted.<sup>9</sup> The Department will not issue a license unless, when viewed in light of the occupation

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<sup>7</sup> See also 28 Tex. Admin. Code § 1.502(h)(2).

<sup>8</sup> Tex. Occ. Code § 53.023(b).

<sup>9</sup> 28 Tex. Admin. Code § 1.502(h)(2)(G).

being licensed, the mitigating factors outweigh the serious nature of the criminal offense or the fraudulent or dishonest conduct.<sup>10</sup>

When making a licensing determination, the Department may consider a deferred adjudication to be a conviction if the person remains on community supervision, and if, after considering the factors in Texas Occupations Code sections 53.022 and 53.023(a), the Department determines that the person may pose a continued threat to public safety or that employment of the person in the licensed occupation would create a situation in which the person has an opportunity to repeat the prohibited conduct.<sup>11</sup> If the Department determines that a deferred adjudication can be treated as a conviction for licensing purposes, then the same factors are weighed in determining whether the applicant is fit to perform the duties and discharge the responsibilities of the licensed occupation despite the criminal offense.<sup>12</sup>

In this proceeding, Staff has the burden of proving its grounds for denying Mr. Hum's license application, while Mr. Hum has the burden to prove his fitness to be licensed despite his criminal history or fraudulent or dishonest conduct.<sup>13</sup> The standard of proof is by a preponderance of the evidence.<sup>14</sup>

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<sup>10</sup> 28 Tex. Admin. Code § 1.502(f).

<sup>11</sup> Tex. Occ. Code § 53.021(d).

<sup>12</sup> See Tex. Occ. Code §§ 53.022-.023(a).

<sup>13</sup> 1 Tex. Admin. Code § 155.427.

<sup>14</sup> *Graneke v. Tex. St. Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

**III. EVIDENCE**

At the hearing, Staff introduced four exhibits into evidence<sup>15</sup> and presented the testimony of John Huebner. Mr. Hum testified on his own behalf but did not offer any exhibits.

**A. MR. HUM’S CRIMINAL HISTORY**

On July 8, 2021, Mr. Hum pleaded guilty to burglary of a habitation, a second-degree felony.<sup>16</sup> Adjudication was deferred, and Mr. Hum was placed on community supervision for five years and ordered to pay \$325 in court costs. The offense occurred on December 27, 2019.

**B. STAFF’S EVIDENCE**

Jon Huebner, who oversees applications for agent and adjuster licensing, testified that the Department has the responsibility to establish that applicants are trustworthy. Mr. Huebner testified that Mr. Hum answered yes to the application question asking if he had ever been convicted or pleaded guilty to a felony. His application was sent to the Department’s administrative review department for additional evaluation.

Mr. Huebner noted that Mr. Hum was on deferred adjudication for burglary of a habitation and that he would remain on community supervision until July 2026.

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<sup>15</sup> Staff’s exhibits consist of Exhibit 1 (notice of hearing, original petition, and mail logs), Exhibit 2 (answer), Exhibit 3 (application documents), and Exhibit 4 (28 Tex. Admin. Code § 1.502).

<sup>16</sup> Staff Ex. 3 at 032. Mr. Hum’s case was Case No. 2020CRI001476D3 in the 341st District Court, Webb County, Texas.

He also testified that dishonesty is involved with burglary, and that being an agent could provide an opportunity to reoffend in dishonest ways. He noted that burglary is considered a crime of prime importance and directly related to the occupation. He described Mr. Hum's job history, his age when the crime was committed, and his two letters of recommendation. The burglary offense is the only crime of Mr. Hum's of which Mr. Huebner is aware. He also testified that Mr. Hum's resume showed seven short-term jobs in the last four years with a one-year gap in employment. Mr. Huebner recommended that Mr. Hum's application be denied.

**C. MR. HUM'S EVIDENCE**

Mr. Hum testified that he was seventeen when the crime occurred, but that because of COVID, he was not charged until one year later. He testified that at the time of the crime, he was a senior in high school and in a different mental state: it was easy for him to get caught up in what other people were doing. He was also addicted to Xanax, smoking marijuana, and drinking, all of which affected his mental state.

He testified that he knew the victim, who was someone he would use drugs with. He testified that the victim had stolen something from him and did not want to give it back. The conviction resulted from a fight the two had at the victim's house.

Mr. Hum testified that a lot has changed since the time of his crime. He said he has a bad history but feels like he has learned a lot. He now thinks and plans more for his life. He has had difficulty sticking with regular jobs, but the

opportunity to be an agent would be different. He testified that his goal is financial freedom, and he wants to help his parents and his community. He wants to be able to repay his parents, who are paying his probation fees. He is no longer addicted to Xanax, and said he is no longer in his former mental state. He added that he was on track to be released early from his community supervision.

Mr. Hum presented two letters of recommendation. The first is from his father, who praises his accountability. The second letter is from his mother, who notes that Mr. Hum is now choosing his friends more wisely.

#### **IV. ANALYSIS**

Mr. Hum's deferred adjudication may be considered a conviction because he remains on community supervision and his employment in the licensed occupation would create a situation in which he would have the opportunity to repeat the prohibited conduct in that he could have the opportunity to behave dishonestly.<sup>17</sup> His crime, a felony, is also directly related to the occupation and considered by the Department to be of prime importance.<sup>18</sup>

Turning to the relevant factors, Mr. Hum's crime—burglary—was serious. Mr. Hum was seventeen years old at the time it was committed, making it a youthful crime. Approximately five years have passed since his criminal activity. He has not maintained consistent employment either before or after the crime. He

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<sup>17</sup> Tex. Occ. Code § 53.021(d). *See also* Tr. at 18 (working as an agent “puts the applicant in situations with consumers where they could potentially re-offend in a dishonest way”).

<sup>18</sup> Tex. Occ. Code § 53.022; 28 Tex. Admin. Code § 1.502(e)(4)(E).

has not presented significant evidence of rehabilitation, only his statements of his goals and that he is not using drugs anymore. His letters of recommendation, while very positive, are both from his parents.

Given the evidence, the ALJ recommends that Mr. Hum's application be denied at this time. Although Mr. Hum appears sincere in his desire to change his life, the fact that he remains on community supervision weighs against licensure. Given the scarcity of mitigating evidence, not enough time has passed for him to show sufficient fitness to alleviate the concerns based on his criminal history. This does not mean that he might not ever be able to show fitness, only that he has not done so yet.

Based on the foregoing, the ALJ concludes that Mr. Hum's application for a life agent license should be denied. In support of this recommendation, the ALJ makes the following findings of fact and conclusions of law.

**V. FINDINGS OF FACT**

1. On August 9, 2023, Mang Hum applied for a life agent license from the Texas Department of Insurance (Department).
2. On July 8, 2021, Mr. Hum pleaded guilty to burglary of a habitation, a second-degree felony. Adjudication was deferred, and Mr. Hum was placed on community supervision for five years and ordered to pay \$325 in court costs. The offense occurred on December 27, 2019.
3. As of the date of the hearing, Mr. Hum remains on community supervision.
4. Mr. Hum's licensure would provide him the opportunity to repeat unlawful behavior.

5. The conduct to which he pleaded guilty is Mr. Hum's only criminal conviction.
6. Mr. Hum was seventeen at the time of his criminal conduct.
7. Almost five years have elapsed since Mr. Hum's criminal activity.
8. Mr. Hum has held a variety of jobs since he pleaded guilty and had a period of unemployment.
9. On November 10, 2023, the Department proposed to deny Mr. Hum's application.
10. Mr. Hum timely requested a hearing.
11. The hearing on the merits was held via Zoom videoconference on September 11, 2024, before ALJ Rebecca Smith. Attorney Erik Huhn appeared and represented Staff. Mr. Hum appeared and represented himself. The hearing concluded that day, and the record closed on October 1, 2024, when the court reporter's transcript was filed with the State Office of Administrative Hearings.

## **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. Hum 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. Hum's license application, while Mr. Hum had the burden to prove his fitness to be licensed despite the criminal history or fraudulent or dishonest conduct. The standard of proof is by a preponderance of the evidence. 1 Tex. Admin. Code

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

5. 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 crimes for with the essential elements of a burglary offense. 28 Tex. Admin. Code § 1.502(e)(4)(E)(since amended).
6. The Department may consider Mr. Hum's deferred adjudication to be a conviction for purposes of making a licensing determination. Tex. Occ. Code § 53.021(d).
7. The Department may deny Mr. Hum's license application because he is considered to have 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 considers 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 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(g)-(h)(since amended).
9. The mitigating factors do not outweigh the seriousness of Mr. Hum's criminal offense, and he has not shown his fitness for licensure. Tex. Occ. Code §§ 53.022-.023; 28 Tex. Admin. Code § 1.502(g)-(h).
10. The Department should deny Mr. Hum's application for a life agent license.

**Signed October 25, 2024**

ALJ Signature:



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Rebecca Smith

Presiding Administrative Law Judge