

No. 2025-9363

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

Date: 06/23/2025

Subject Considered:

Texas Department of Insurance

v.

Shanita Gaines

SOAH Docket No. 454-25-08385.C

General Remarks and Official Action Taken:

The subject of this order is Shanita Gaines' application for an all lines adjuster license. This order denies Ms. Gaines' 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 Ms. Gaines' application for an all lines adjuster license be denied. A copy of the proposal for decision is attached as Exhibit A.

Findings of Fact

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

Conclusions of Law

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

COMMISSIONER'S ORDER
TDI V. SHANITA GAINES
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Order

It is ordered that Shanita Gaines' application for an all lines adjuster license is denied.

Signed by:

FC5D7EDDFFB4F8... _____
Cassie Brown
Commissioner of Insurance

Recommended and reviewed by:

Signed by:

5DAC5618BBC74D4... _____
Jessica Barta, General Counsel

Signed by:

27ADF3DA5BAF4B7... _____
Justin Beam, Chief Clerk

**BEFORE THE
STATE OFFICE OF ADMINISTRATIVE
HEARINGS**

—
**TEXAS DEPARTMENT OF INSURANCE,
PETITIONER
v.
SHANITA GAINES,
RESPONDENT**

PROPOSAL FOR DECISION

The staff (Staff) of the Texas Department of Insurance (Department) seeks to deny the application of Shanita Gaines (Respondent) for an all-lines adjuster license based on her prior fraudulent or dishonest activity. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends the Department deny Respondent's license application.

I. NOTICE, JURISDICTION, AND PROCEDURAL HISTORY

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 via Zoom

videoconference on February 13, 2025, before ALJ Heather D. Hunziker of the State Office of Administrative Hearings (SOAH). Staff was represented by staff attorney Kaycee Crisp. Respondent appeared and represented herself. The hearing concluded that day; and the record closed on March 5, 2025, when the admitted exhibits were filed with SOAH.

II. APPLICABLE LAW

The Texas Insurance Code authorizes the Department to regulate the business of insurance in this state and to deny a license application for violating the laws or rules related to insurance.¹ In particular, the Department may deny a license if the license holder has engaged in a fraudulent or dishonest act or practice.² The Department considers it very important that license holders be honest, trustworthy, and reliable.³

Staff has the burden of proving grounds for denying a license application—in this case, the fraudulent or dishonest act or practice.⁴ The applicant then has the burden to show her fitness for licensure despite the basis for denial.⁵ The standard of proof is by a preponderance of the evidence.⁶

¹ Tex. Ins. Code §§ 31.002(1), (3); 4005.102(1).

² Tex. Ins. Code § 4005.101(b)(5).

³ 28 Tex. Admin. Code § 1.502(c).

⁴ 1 Tex. Admin. Code § 155.427.

⁵ 1 Tex. Admin. Code § 155.427.

⁶ See *Granek 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 had sixteen exhibits admitted into evidence⁷ and presented testimony from Lewis Weldon Wright, IV. The ALJ took notice of current versions of statutes and rules of Texas and Oklahoma.⁸ Respondent offered no exhibits or testimony.

A. BACKGROUND

Application. On July 25, 2024, Respondent applied to the Department for an all-lines adjuster license.⁹ On August 5, 2024, the Department proposed to deny Respondent's application because she was disbarred from the practice of law in two states for fraudulent or dishonest acts or practices.¹⁰ Respondent requested a hearing on the proposed denial.¹¹

⁷ Staff's Exhibits consisted of: Notice of Hearing (Staff Ex. 1); Letter to the Court (Staff Ex. 2); Certificate of Service (Staff Ex. 3); Respondent's Original Answer (Staff Ex. 4); Respondent's Agent and Adjuster License Application (Staff Ex. 5); Correspondence from the Department to Respondent (Staff Ex. 6); Letter of Recommendation of Dorothea Laster (Staff Ex. 7); Correspondence from Respondent to the Department regarding recommendations (Staff Ex. 8); Correspondence from Respondent to the Department regarding job and résumé (Staff Ex. 9); Letter of Recommendation of Kristen Muldrow (Staff Ex. 10); Correspondence from Respondent to the Department regarding job verification (Staff Ex. 11); 2016 State Bar of Texas Judgment of Suspension (Staff Ex. 12); 2016 Oklahoma State Bar Notice of Judgment of Suspension (Staff Ex. 13); *State ex rel. Oklahoma Bar Ass'n v. Gaines* (Staff Ex. 14); 2018 State Bar of Texas Judgment of Disbarment (Staff Ex. 15); and 2018 Oklahoma State Bar Disbarment (Staff Ex. 16).

⁸ The noticed statutes and rules, presented by Staff, consisted of: Tex. Ins. Code § 4005.101 (Staff Ex. A); Tex. Ins. Code § 4005.102 (Staff Ex. B); Tex. R. Disc. P. 1.01 (Staff Ex. C); Tex. R. Disc. P. 1.03 (Staff Ex. D); Tex. R. Disc. P. 1.04 (Staff Ex. E); Tex. R. Disc. P. 1.15 (Staff Ex. F); Tex. R. Disc. P. 1.16 (Staff Ex. G); Tex. R. Disc. P. 5.03 (Staff Ex. H); Tex. R. Disc. P. 5.04 (Staff Ex. I); Tex. R. Disc. P. 8.04 (Staff Ex. J); Okla. R. Professional Conduct 1.4 (Staff Ex. K); Okla. R. Professional Conduct 1.5 (Staff Ex. L); Okla. R. Professional Conduct 1.15 (Staff Ex. M); Okla. R. Professional Conduct 1.16 (Staff Ex. N); Okla. R. Professional Conduct 5.3 (Staff Ex. O); and Okla. R. Professional Conduct 8.4 (Staff Ex. P).

⁹ Staff Ex. 5.

¹⁰ Staff Ex. 5 at 32.

¹¹ Staff Ex. 5 at 31.

2016 Texas Bar Suspension. On March 21, 2016, a State Bar of Texas Evidentiary Panel entered a Judgment of Fully Probated Suspension (Texas Judgment) against Respondent.¹² The Texas Judgment found that Respondent committed professional misconduct with regard to three different clients, by (among other misconduct): (1) failing to keep the client(s) reasonably informed about the status of their legal matters; (2) failing to promptly comply with clients' reasonable requests for information; (3) failing to promptly notify a client of settlement funds received, and to deliver the funds to the client; (4) failing to make reasonable efforts to ensure that conduct of a non-lawyer under her supervisory authority was compatible with Respondent's professional obligations; and (5) sharing legal fees with a non-lawyer.¹³ The Texas Judgment suspended Respondent from the practice of law in Texas for two years.¹⁴ Respondent was also ordered to pay restitution to one of her wronged clients, in the amount of \$1,566.66.¹⁵

2016 Oklahoma Bar Suspension. On April 25, 2016, the Oklahoma Bar Association filed a notice of Respondent's Texas suspension with the Oklahoma Supreme Court.¹⁶ On April 28, 2016, the Court directed Respondent "to show cause in writing why a final order of discipline should not be imposed, or to request a hearing, on or before May 19, 2016;" and Respondent did not file a response or

¹² Staff Ex. 12.

¹³ Staff Ex. 12 at 87-88.

¹⁴ Staff Ex. 12 at 89.

¹⁵ Staff Ex. 12 at 89-90.

¹⁶ Staff Ex. 13.

request a hearing.¹⁷ On June 28, 2016, the Oklahoma Supreme Court entered a judgment suspending Respondent from the practice of law in Oklahoma for two years and one day, based upon the conduct that resulted in her suspension in Texas.¹⁸

2018 Texas Disbarment. On February 5, 2018, a State Bar of Texas Grievance Committee Evidentiary Panel entered a Judgment of Disbarment (Disbarment) against Respondent.¹⁹ The Disbarment found that Respondent committed professional misconduct by: (1) failing to promptly comply with a personal injury client's reasonable requests for information; (2) failing to deposit the client's settlement funds into a separate trust account; (3) failing to provide the client a written statement describing the outcome of the client's legal matter and showing the remittance to the client's medical provider; (4) failing to notify the client's medical provider about her receipt of the settlement funds; (5) failing to surrender the client's paper and property; and (6) failing to make reasonable efforts to ensure that conduct of a non-lawyer under her supervisory authority was compatible with Respondent's professional obligations.²⁰ The Disbarment specifically found that Respondent engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation.²¹ The Disbarment disbarred Respondent from the practice of law in Texas and ordered her to surrender her law license.²²

¹⁷ Staff Ex. 14 at 105.

¹⁸ Staff Ex. 14 at 106.

¹⁹ Staff Ex. 15.

²⁰ Staff Ex. 15 at 114-15.

²¹ Staff Ex. 15 at 115.

²² Staff Ex. 15 at 115, 117.

2018 Oklahoma Disbarment. On November 20, 2018, the Oklahoma Supreme Court entered an order specifically finding that Respondent committed professional misconduct, in that she “misappropriated her clients’ settlement proceeds,” and disbarring her in Oklahoma.²³

In her opening statement at the hearing, Respondent contended that “the record reflects engagement in fraud and dishonesty” but it was her employee who committed the wrongful conduct for which the state bars disciplined her, and that she has “rehabilitated” since then.²⁴

B. MR. WRIGHT’S TESTIMONY

Mr. Wright is the Administrative Review Liaison for the Agent and Adjuster Licensing Office to the Enforcement Division and was the Department’s designated representative. He testified about Respondent’s license application, her disbarment proceedings, and the Department’s recommendation to deny Respondent’s application. Mr. Wright explained that the Department’s Administrative Review section reviews license applications of concern, such as where a background check reveals a criminal history.²⁵

Mr. Wright explained that the insurance license application is designed to protect Texas consumers.²⁶ A Department license conveys to the public that the

²³ Staff Ex. 16 at 137-38.

²⁴ Transcript of the Hearing on the Merits (Tr.) at 13-14.

²⁵ Tr. at 20-21.

²⁶ Tr. at 23.

Department has entrusted the licensee with the authority to act under the license and has deemed them honest, trustworthy, and reliable; that the licensee will be transparent in their dealings with the public; and that the public can have confidence in the insurance transactions that they engage in.²⁷ He emphasized that, due to the complexity of insurance transactions, it is important that consumers have individuals who will transact business in a transparent fashion and whom they can trust to handle transactions responsibly.²⁸ If an agent is untrustworthy, it can cause direct harm to the consumers of Texas.²⁹

Mr. Wright explained that the basic duties of an adjuster are to enter into insurance contracts to represent the insurance company when a claim is filed, to gather information about losses, to determine any deductibles that apply, and to pay on behalf of the insurance company to satisfy claims.³⁰ He said that, regardless of whether an adjuster is independent or applying to work for a captive company, the adjuster is required to have a license.³¹

As for Respondent's application, Mr. Wright testified that it came to his desk due to information regarding her ability to practice law that was revealed during her background screening. Consequently, the Department proposed to deny her

²⁷ Tr. at 22.

²⁸ Tr. at 23.

²⁹ Tr. at 23.

³⁰ Tr. at 24-25.

³¹ Tr. at 25.

application based on her suspension and disbarment from the practice of law in Texas and reciprocal actions in Oklahoma.³²

Turning to the state bar disciplinary orders, Mr. Wright noted that the Texas Bar found Respondent to have violated numerous disciplinary rules of professional conduct.³³ He noted that the Texas Judgment describes the misuse of settlement funds by Respondent; and he described the incidents for which Respondent’s law license was suspended as a concern for the Department and “very severe.”³⁴ Regarding her disbarments, he stated that a state bar committee deciding to disbar someone after suspension indicates they thought this was severe misconduct.³⁵ Mr. Wright also noted that, in deciding to disbar Respondent, the Oklahoma Supreme Court did its own de novo review of Respondent’s conduct.³⁶

According to Mr. Wright, the conduct warranting disbarments in this case, including mishandling of client funds and settlement funds, is of particular concern to the Department. He said, “The nature and severity of the misconduct makes a difference in our analysis of the misconduct” because it is “within the authority and the duties that were being considered when granting an adjusters license.”³⁷ He also

³² Tr. at 26.

³³ Tr. at 27.

³⁴ Tr. at 28, 31.

³⁵ Tr. at 32-33.

³⁶ Tr. at 34.

³⁷ Tr. at 35-36.

noted that Respondent's personal statement in her application does not show remorse or take responsibility but deflects and attributes the misconduct to others.³⁸

Mr. Wright also discussed other documents Respondent submitted for her application. He testified that Respondent studied and passed a course required to indicate minimum amounts of competency related to adjusting insurance claims.³⁹ He summarized the two letters of reference sent for Respondent: (1) from Dorothea Laster, indicating she had known Respondent for more than a year and would have no concerns with her receiving an insurance license despite her disbarment; and (2) from Kristin Muldrow, indicating she had known Respondent for several years as a good communicator and recommending Respondent despite "challenges in her career."⁴⁰ Mr. Wright observed that Ms. Laster did not indicate the specifics of the disbarment. As for Respondent's résumé, he said it shows she has been consistently employed; but he was concerned that her recent job duties appear to require insurance licensure that she does not have, which he said would be "an infraction of [the Insurance] Code."⁴¹ He also pointed out that her résumé lists "Texas Insurance Claims Adjuster License (pending);" but, he said, that is "not actually a certification that has actually been attained at that point in time."⁴²

³⁸ Tr. at 36.

³⁹ Tr. at 38; *see* Staff Ex. 5 at 37 (pre-licensing course completion certification).

⁴⁰ Tr. at 39-40; *see* Staff Exs. 7 at 70, 10 at 80. Ms. Laster, a lawyer, hired Respondent to work on complex litigation matters for her firm, after Respondent disclosed her disbarments; described Respondent as intelligent, honest, hard-working, and extremely conscientious; and recommended Respondent for insurance work. Staff Ex. 7 at 70. Ms. Muldrow, who did not say who she is or how she knows Respondent, described Respondent as highly intelligent, forward-thinking, dependable, and trustworthy, with honesty, integrity, professionalism, a work ethic, and a strong moral compass; and she recommended Respondent for an insurance adjuster role. Staff Ex. 10 at 80.

⁴¹ Tr. at 42. *See* Staff Ex. 9 at 77-79.

⁴² Tr. at 42-43; *see* Staff Ex. 9 at 79.

Mr. Wright testified that, while Respondent has shown she is industrious and consistently employed, those facts do not outweigh the Department's concerns about her being granted the authority of an adjuster all-lines license, which is "very similar to the authority that was not handled professionally as a lawyer."⁴³ In summary, Mr. Wright stated that the Department's position is that Respondent should be denied licensure.⁴⁴

IV. ANALYSIS

Staff contends that Respondent's history shows her unfit for the position, because adjusters hold a great deal of trust and responsibility and she has shown herself to be untrustworthy. Respondent argued, in closing, that her past actions showed no fraud or dishonesty, only lack of management;⁴⁵ however, she conceded, in opening, that "the record reflects engagement in fraud and dishonesty."⁴⁶

The evidence and prior judicial determinations establish that Respondent engaged in fraudulent or dishonest acts or practices. It is undisputed that Respondent was suspended and disbarred in both Texas and Oklahoma for failing to deposit a client's funds into a separate trust account;⁴⁷ failing to promptly notify a client of settlement funds received, and to deliver the funds to the client; and failing to surrender the client's paper and property. The Disbarment specifically found that

⁴³ Tr. at 43.

⁴⁴ Tr. at 43.

⁴⁵ Tr. at 52.

⁴⁶ Tr. at 13.

⁴⁷ Tr. at 52.

Respondent “engaged in conduct involving dishonesty, fraud, deceit or misrepresentation;”⁴⁸ and the 2018 Oklahoma Supreme Court order specifically found that Respondent “misappropriated her clients’ settlement proceeds.”⁴⁹

The ALJ finds that Respondent has engaged in fraudulent or dishonest acts or practices. Therefore, the Department has established the grounds for license denial under Texas Insurance Code section 4005.101(b)(5). Thus, the burden shifts to Respondent to establish why she should be issued a license despite the basis for denial.

The ALJ finds that Respondent presented no evidence specifically on this point and has not met her burden. While the ALJ is sympathetic to Respondent’s self-stated desire to begin a new career in insurance,⁵⁰ the ALJ also finds that Respondent’s recommendation letters and résumé do not outweigh her history of fraud. Respondent failed to offer mitigating factors, circumstances, or considerations that would justify allowing her to obtain a license, and Respondent has not shown her fitness for licensure. Therefore, the Department should deny Respondent an all-lines adjuster license at this time. In support of this recommendation, the ALJ makes the following findings of fact and conclusions of law.

⁴⁸ Staff Ex. 15 at 115.

⁴⁹ Staff Ex. 16 at 137.

⁵⁰ Tr. at 53-54.

V. FINDINGS OF FACT

1. On March 21, 2016, a State Bar of Texas Evidentiary Panel suspended the Texas law license of Shanita Gaines (Respondent) after finding that Respondent committed professional misconduct with regard to three different clients, by (among other misconduct): (1) failing to keep the clients reasonably informed about the status of their legal matters; (2) failing to promptly comply with clients' reasonable requests for information; (3) failing to promptly notify a client of settlement funds received, and to deliver the funds to the client; (4) failing to make reasonable efforts to ensure that conduct of a non-lawyer under her supervisory authority was compatible with Respondent's professional obligations; and (5) sharing legal fees with a non-lawyer.
2. Respondent was also ordered to pay restitution in the amount of \$1,566.66 as a condition of her 2016 Texas Bar suspension.
3. On June 28, 2016, the Oklahoma Supreme Court entered a judgment suspending Respondent from the practice of law in Oklahoma for two years and one day, based upon the conduct that had resulted in her suspension in Texas.
4. On February 5, 2018, a State Bar of Texas Evidentiary Panel entered a Judgment of Disbarment (Disbarment) against Respondent after finding that Respondent committed professional misconduct by: (1) failing to promptly comply with a personal injury client's reasonable requests for information; (2) failing to deposit the client's settlement funds into a separate trust account; (3) failing to provide the client a written statement describing the outcome of the client's legal matter and showing the remittance to the client's medical provider; (4) failing to notify the client's medical provider about her receipt of the settlement funds; (5) failing to surrender the client's paper and property; and (6) failing to make reasonable efforts to ensure that conduct of a non-lawyer under her supervisory authority was compatible with Respondent's professional obligations.
5. The Disbarment specifically found that Respondent engaged in conduct involving dishonesty, fraud, deceit or misrepresentation.

6. On November 20, 2018, the Oklahoma Supreme Court entered an order specifically finding that Respondent committed professional misconduct, in that she “misappropriated her clients’ settlement proceeds,” and disbarring her in Oklahoma.
7. On July 25, 2024, Respondent applied to the Texas Department of Insurance (Department) for an all-lines adjuster license.
8. Respondent provided two letters of recommendation that spoke very highly of her work ethic, honesty, and character.
9. Respondent provided her résumé, which shows that she has been continuously employed for more than 15 years, both before and after her disbarments.
10. On August 5, 2024, the staff (Staff) of the Department proposed to deny Respondent’s application because she was disbarred from the practice of law in two states for fraudulent or dishonest acts or practices.
11. Respondent timely requested a hearing to challenge the Department’s denial.
12. On December 18, 2024, Staff issued a notice of hearing on the denial of Respondent’s application.
13. 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.
14. The hearing in this case was held via Zoom videoconference on February 13, 2025, before Administrative Law Judge Heather D. Hunziker of the State Office of Administrative Hearings (SOAH). Staff was represented by staff attorney Kaycee Crisp. Respondent appeared and represented herself. The hearing concluded that day; and the record closed on March 5, 2025, when the admitted exhibits were filed with SOAH.

15. Respondent's work history and recommendations do not outweigh her fraudulent or dishonest acts, and she has not shown her fitness for licensure despite her misconduct.

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. Respondent 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 Respondent's license application, while Respondent had the burden to prove her fitness to be licensed despite her 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 is authorized to deny Respondent's application because she engaged in fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(5).
6. The Department should deny Respondent's application for a license at this time.

Signed March 25, 2025



Heather D. Hunziker
Presiding Administrative Law Judge