

No. 2025-9365

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

**Date:** 06/23/2025

**Subject Considered:**

Texas Department of Insurance

v.

Abel Nnabue

SOAH Docket No. 454-24-20864.C

**General Remarks and Official Action Taken:**

The subject of this order is Abel Nnabue's applications for a life agent license and an adjuster all lines license. This order denies Mr. Nnabue's applications.

**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 Mr. Nnabue's applications be denied. A copy of the proposal for decision is attached as Exhibit A.

Texas Department of Insurance (TDI) Enforcement staff filed exceptions to the administrative law judge's proposal for decision. Mr. Nnabue did not file a reply to the exceptions.

In response to the exceptions, the administrative law judge recommended revising the proposal for decision. A copy of the administrative law judge's response to the exceptions is attached as Exhibit B.

**Discussion of Applicable Law**

Insurance Code § 4005.101(b)(3)

The Analysis portion of the proposal for decision says that to show a violation of Insurance Code § 4005.101(b)(3), it is necessary to prove that Mr. Nnabue intentionally

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misrepresented a material fact on his application.<sup>1</sup> A footnote to this statement says that "fraud" and "misrepresentation" are not defined, and it provides the definitions for these terms from the 11th edition of *Black's Law Dictionary*. The footnote says that fraud "is defined as a *knowing* misrepresentation or *knowing* concealment of a material fact" (emphasis added) and concludes that the language of the statute "makes clear that a necessary element of this violation is the intent to obtain a license through a misrepresentation."<sup>2</sup>

In response to the assertion that fraud requires a *knowing* act, this order clarifies that a knowing misrepresentation or knowing concealment of a material fact is not the only basis to find a violation of Insurance Code § 4005.101(b)(3). As has been explained in prior commissioner orders, a fraudulent act may be committed by someone acting knowingly or *recklessly*.<sup>3</sup> Similarly, TDI has found that "a dishonest act is marked by deliberate or reckless deception."<sup>4</sup> So, fraud *may* be the result of a knowing misrepresentation of the truth (as stated in the footnote on page 13 of Exhibit A), but it can also result from one acting recklessly without knowledge of the truth.

Because the administrative law judge correctly found that Mr. Nnabue violated Insurance Code § 4005.101(b)(3), no changes to the proposed findings of fact or conclusions of law are necessary on this issue.

### **Findings of Fact**

The proposed findings of fact contained in Exhibit A as revised consistent with Exhibit B are adopted and incorporated by reference into this order.

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<sup>1</sup> Exhibit A, pg. 13.

<sup>2</sup> In the exceptions to the proposal for decision, TDI Enforcement staff point out that Insurance Code § 4005.101(b)(3) does not contain the words "intent" or "intentionally," and staff assert that the proposal for decision's requirement to show intent adds a new element not required by the statute. The administrative law judge did not discuss staff's arguments in her response to exceptions, but she changed the proposed conclusions of law to remove the reference to intent in regard to Insurance Code § 4005.101(b)(3).

<sup>3</sup> See, e.g., *Tex. Dep't of Ins. v. Elizabeth Carolina Perez*, SOAH Docket No. 454-20-2384.C, Commissioner's Order 2021-6974, pg. 2 (citing *Meyer v. Tex. Dept. of Ins.*, No. 03-10-00642-CV, 2011 WL 5865240 at \*2 (Tex. App.—Austin 2011, pet. denied) (mem. op)).

<sup>4</sup> *Id.* pg. 3, footnote 3.

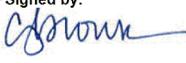
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**Conclusions of Law**

The proposed conclusions of law contained in Exhibit A as revised consistent with Exhibit B are adopted and incorporated by reference into this order.

**Order**

It is ordered that Abel Nnabue's applications for a life agent license and an adjuster all lines license are 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:  
  
27ADF3DA5BAF4B7... \_\_\_\_\_  
Justin Beam, Chief Clerk

**BEFORE THE  
STATE OFFICE OF ADMINISTRATIVE  
HEARINGS**

—  
**TEXAS DEPARTMENT OF INSURANCE,  
PETITIONER**

**v.**

**ABEL NNABUE,  
RESPONDENT**

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**PROPOSAL FOR DECISION**

Abel Nnabue (Respondent) applied to the Texas Department of Insurance (Department) for a life agent license and an adjuster-all lines license. Department staff (Staff) seeks to deny Respondent's licensure because of his criminal history and a material misrepresentation in his application for a life agent license.<sup>1</sup> After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends Respondent's license applications be denied.

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<sup>1</sup> Respondent's application for an adjuster-all lines license is not in the evidence.

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

In 2022, Respondent applied to the Department for a life agent and an adjuster-all lines license, and the Department proposed to deny the applications.<sup>2</sup> Respondent requested a hearing to challenge the proposed denial of licensure.<sup>3</sup> On June 26, 2024, the Department referred this matter to the State Office of Administrative Hearings (SOAH) for a hearing.

On December 18, 2024, SOAH ALJ Katerina DeAngelo convened a hearing by Zoom videoconference. Attorneys Victor Moya, III and Stephanie Andrews represented Staff, and Respondent represented himself. The record closed on January 14, 2025, on the filing of the hearing transcript. Notice and jurisdiction were undisputed and are thus discussed only in the Findings of Fact and Conclusions Law.

**II. APPLICABLE LAW**

The Texas Insurance Code authorizes the Department to regulate the business of insurance in this state, to take disciplinary action against agents who violate the laws or rules related to insurance, and to deny applications for licenses, among other activities.<sup>4</sup> Staff alleges that Respondent’s application should be denied because he was convicted of a felony offense; engaged in fraudulent or dishonest activity, which

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<sup>2</sup> Staff Ex. 5 at 102-03, 106.

<sup>3</sup> Staff Ex. 5 at 101.

<sup>4</sup> Tex. Ins. Code §§ 31.002(1), (3); 4005.102.

directly relates to the job of an insurance agent; and provided false information on his license application.<sup>5</sup>

The Department considers it very important that license holders and applicants are honest, trustworthy, and reliable; and evaluates an applicant's criminal history and other conduct to determine whether the applicant possesses those qualities.<sup>6</sup> The Department may deny an application on several grounds, including if the applicant has intentionally made a material misstatement in the license application; has obtained or attempted to obtain a license by fraud or misrepresentation; has engaged in fraudulent or dishonest acts or practices; has been convicted of a felony; or has been convicted of an offense directly related to the duties and responsibilities of the licensed occupation.<sup>7</sup>

The Department has developed guidelines relating to the matters that the Department will consider in determining whether to grant, deny, suspend, or revoke any license or authorization under its jurisdiction.<sup>8</sup> Those crimes which the Department considers to be of such serious nature that they are of prime importance in determining fitness for licensure or authorization include, but are not limited to, any offense for which fraud, dishonesty, or deceit is an essential element.<sup>9</sup> The

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<sup>5</sup> Staff Ex. 1.

<sup>6</sup> 28 Tex. Admin. Code § 1.502(a), (c)-(e). 28 Texas Administrative Code section 1.502 was amended effective September 26, 2023. For purposes of this Proposal for Decision, citations to licensing requirements will be to the rules in effect at the time of Respondent's applications for the licenses in 2022.

<sup>7</sup> Tex. Ins. Code § 4005.101(b)(2), (3), (5), (8); 28 Tex. Admin. Code § 1.502 (d), (e)(1).

<sup>8</sup> 28 Tex. Admin. Code § 1.502(e).

<sup>9</sup> 28 Tex. Admin. Code § 1.502(e)(1).

Department has determined that the crimes it considers to be of prime importance are directly related to the occupations it licenses.<sup>10</sup>

For applicants with criminal convictions, the Department considers the factors specified in Texas Occupations Code sections 53.022 and .023 in determining whether to grant a license to the applicant.<sup>11</sup> 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.<sup>12</sup>

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<sup>10</sup> 28 Tex. Admin. Code § 1.502(e); *see also* Tex. Occ. Code § 53.025.

<sup>11</sup> 28 Tex. Admin. Code § 1.502(h)

<sup>12</sup> Tex. Occ. Code § 53.022; 28 Tex. Admin. Code § 1.502(h)(1).

In determining the fitness of a person who has been convicted of a crime to perform the duties and responsibilities of the licensed occupation, the Department must consider the following factors set out in 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.<sup>13</sup>

It is an applicant’s responsibility, to the extent possible, to obtain and provide to the Department the recommendations described in Texas Occupations Code section 53.023(a)(7).<sup>14</sup> Additionally, an applicant must furnish proof to the Department that the license holder has: maintained a record of steady employment; supported the license holder’s dependents, where applicable; otherwise maintained a record of good conduct; and paid all outstanding court costs, supervision fees,

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<sup>13</sup> Tex. Occ. Code § 53.023; 28 Tex. Admin. Code § 1.502(h)(2).

<sup>14</sup> Tex. Occ. Code § 53.023(b); 28 Tex. Admin. Code § 1.502(h)(3).

finer, and restitution ordered in any criminal case in which the license holder has been convicted.<sup>15</sup> 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.<sup>16</sup>

The Department may consider a deferred adjudication to be a conviction if the person completed the period of supervision less than five years before the date the person applied for the license and if, after considering the factors in 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>17</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>18</sup>

Staff has the burden of proving its grounds for denying Respondent's applications, while Respondent has the burden to prove his fitness to be licensed

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<sup>15</sup> 28 Tex. Admin. Code § 1.502(h)(2)(G).

<sup>16</sup> 28 Tex. Admin. Code § 1.502(g).

<sup>17</sup> Tex. Occ. Code § 53.021(d).

<sup>18</sup> *See* Tex. Occ. Code §§ 53.022, .023(a).

despite his criminal history and/or fraudulent or dishonest conduct.<sup>19</sup> The standard of proof is by a preponderance of the evidence.<sup>20</sup>

### **III. EVIDENCE**

Staff offered ten exhibits, which were admitted and presented testimony from Lewis Wright, the administrative review liaison for the Department, and Respondent.<sup>21</sup> Respondent also testified on his own behalf and did not offer any exhibits.

#### **A. BACKGROUND**

Respondent applied for a life agent license and an adjuster-all lines license with the Department.<sup>22</sup> On his application for a life agent license, Respondent answered “No” to the question that asked whether he has ever been convicted of a felony, had a judgment withheld or deferred, or currently charged with committing a felony.<sup>23</sup> The Department proposed to deny the applications.<sup>24</sup> Respondent timely appealed the proposed denial.<sup>25</sup>

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<sup>19</sup> 1 Tex. Admin. Code § 155.427

<sup>20</sup> *Granek v. Texas St. Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).

<sup>21</sup> Staff Exs. 1-10.

<sup>22</sup> Staff Ex. 5 at 111, 152-57. The Department’s letter acknowledging receipt of Respondent’s adjuster-all lines license application was admitted as Staff Exhibit 5 at 112.

<sup>23</sup> Staff Ex. 5 at 154. Mr. Wright testified that Respondent did not provide any documentation of any criminal records with this application; however, he provided such information after the Department received the application and discovered Respondent’s criminal history in its background check. Staff Ex. 5 at 150-51.

<sup>24</sup> Staff Ex. 5 at 102-03, 106.

<sup>25</sup> Staff Ex. 5 at 101.

Respondent has two felony convictions and one felony deferred adjudication. On May 3, 2003, Respondent pleaded guilty to and was convicted of the felony offense of attempted bank fraud in the United States District Court for the Western District of Washington at Seattle, in Cause No. CR 03-11 C. The offense took place in 2002. Respondent was sentenced to one year and one day in prison, a supervised release for three years, and a monetary penalty of \$100.<sup>26</sup> Respondent was 27 years old at the time of this felony offense.

On January 30, 2009, Respondent pleaded guilty to and was convicted of the felony offense of conspiracy to commit bank fraud in the United States District Court for the Eastern District of Virginia, Alexandria Division, in Cause No. 1:08cr385. The offense took place in 2007 and 2008. Respondent was sentenced to 54 months confinement and was ordered to pay restitution of \$127,320.<sup>27</sup> Respondent was 35 years old at the time of this felony offense.

On January 18, 2017, Respondent pleaded guilty to and was sentenced to four years deferred adjudication for the felony offense of possession of a controlled substance in Cause No. F15-2614-211 in the 211th District Court of Denton County, Texas. Respondent was ordered to pay fine of \$1,000. The offense took place in 2014.<sup>28</sup> On December 16, 2020, Respondent was discharged from community supervision.<sup>29</sup> Respondent was 39 years old at the time of this offense.

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<sup>26</sup> Staff Ex. 2.

<sup>27</sup> Staff Ex. 3.

<sup>28</sup> Staff Ex. 4 at 94-97.

<sup>29</sup> Staff Ex. 5 at 142.

Respondent submitted statements and his resume to the Department in relation to his applications.<sup>30</sup> Respondent represented that he regretted his criminal history, learned from his mistakes, and asked for a chance to redeem himself.<sup>31</sup> Respondent's resume shows that he worked as an owner/operator at Ground Delivery Logistics from 2011 to 2016 and a real estate agent at eXp Realty from 2016 to 2021. Since June 2021, Respondent has been working as a manager at Harmonyrose Assisted Living. The resume states that Respondent holds a *life insurance license* and a Washington State real estate broker license.<sup>32</sup>

Respondent also provided character reference statements from individuals who are familiar with him. The statements generally described Respondent as reliable, hardworking, helpful, smart, talented, responsible, professional, honest, and loyal, despite his criminal history.<sup>33</sup>

## **B. TESTIMONY OF MR. WRIGHT**

Mr. Wright has worked for the Department for 17 years and is currently the Administrative Review Liaison to the Department's Enforcement Division. 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 stated that the

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<sup>30</sup> Staff Ex. 2 at 50-51, 56-57.

<sup>31</sup> Staff Ex. 5 at 144.

<sup>32</sup> Staff Exs. 5 at 145-46 (emphasis added), 7. Mr. Wright testified that the life insurance license was of concern as that has not been granted by the Department. Respondent stated that he does not have a life insurance license and that he "did not even know how that got in there."

<sup>33</sup> Staff Ex. 5 at 147-49.

Department's mission is to protect Texas consumers in the insurance industry from possible wrongdoing and misconduct. According to Mr. Wright, a license issued by the Department indicates to the public that the license holder has been deemed honest, trustworthy, competent, and reliable in dealing with Texas insurance consumers.

Mr. Wright testified that Respondent's felony convictions are crimes of prime importance to the Department and directly relate to the occupation for the licenses Respondent is seeking. He added that Respondent was an adult throughout all the offenses, so they could not be considered youthful indiscretions. Mr. Wright opined that granting the licenses would increase an opportunity to re-offend in the same fashion, considering that licensees deal with consumers' sensitive personal information. In his opinion, the severity and the nature of the criminal offenses outweighs any supportive information that Respondent provided. In sum, Mr. Wright believed that it is appropriate to deny Respondent's applications.

### **C. RESPONDENT'S TESTIMONY**

Respondent testified that, prior to submitting his applications, he went through a background check and provided fingerprints. He thought that the background check would be submitted to the Department for further analysis. He stated that the question on the applications regarding criminal history was not "really clear" to him. He thought the question asked whether "there [is] any criminal case on [him] right now" or "something pertaining to right now," not the past. He stated he was not trying to misrepresent or hide anything or defraud the Department

because he knew that the Department would find out about his criminal history anyway. He stated it was a mistake, but it was not intentional.

Respondent testified that he has taken full responsibility for his crimes and that he understands the gravity of his past actions and the impact they had on others. He said that he has worked diligently to rebuild his life and regain the trust of his community. According to Respondent, he completed all necessary legal obligations, including restitution, community services, and all other required programs. He added that his experience has taught him invaluable lessons about integrity, accountability, and the importance of making ethical choices. His goal now is to apply these lessons to his professional life and to contribute positively to society.

Respondent testified that he might look “very bad” and “sketchy” on paper but stressed that he is not that kind of person. He stated he is a good worker and wants to be a model citizen and to provide for his family. Respondent explained that he wants to use his skills and knowledge to help others; and that obtaining these licenses is crucial for him to continue his path of rehabilitation and reintegration into the professional world. Respondent stated that he has remained out of trouble since his deferred adjudication. In addition, Respondent noted that Washington State granted him a real estate license—implying that they “did not have problem with [him]” and trusted him.<sup>34</sup> He stated that there was nothing showing that he used this license irresponsibly. Respondent wants to show that his past does not define his future, and believes he deserves a second chance.

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<sup>34</sup> Respondent’s real estate broker license from Washington State expired in 2023. Staff Ex. 7.

**IV. ANALYSIS**

Staff contends that Respondent's criminal history shows that he lacks the honesty and trustworthiness required to hold an insurance agent license. It is undisputed that Respondent pleaded guilty to and was convicted of two felony offenses: attempted bank fraud and conspiracy to commit bank fraud in 2003 and 2009, respectively. Pursuant to Texas Insurance Code section 4005.101(b)(8) and 28 Texas Administrative Code section 1.502(d), the Department *may* deny Respondent's license applications because he has been convicted of felonies. Moreover, because the Department determined that any offense for which fraud, dishonesty, or deceit is an essential element is of such serious nature that it is of prime importance in determining fitness for licensure and directly relates to the duties and responsibilities of the licensed occupation, the Department *may* deny Respondent's license applications pursuant to Texas Insurance Code section 4005.101(b)(5) and 28 Texas Administrative Code sections 1.502(d), (e)(1).

The evidence does not support a finding that the Department may consider Respondent's deferred adjudication to be a conviction for licensing purposes or that his deferred adjudication directly relates to the duties and responsibilities of the licensed occupation. Respondent completed his period of supervision less than five years before the date he applied for the licenses. Respondent's offense of possession of a controlled substance is a serious offense. However, no evidence was presented on how or why the Department determined possession is a crime of prime importance or how it is directly related to the occupation of an insurance agent. The Department did not establish that possession of a controlled substance relates to the purpose of requiring a license to be an insurance agent, or how a life agent license

and/or an adjuster-all lines license would give Respondent an opportunity to commit the same type of offense. Moreover, the Department's rules seem to exclude mere possession from its list of crimes of prime importance because the list includes the more specific crime of possession with intent to manufacture or deliver.<sup>35</sup> In the absence of evidence showing how possession relates to Respondent's ability to perform the duties and discharge the responsibilities of an insurance agent, the ALJ finds that this offense cannot be considered a conviction and is not directly related to the duties and responsibilities of an insurance agent.

Staff also argues that Respondent's false statement on both of his applications for licensure is a separate basis for denial. It is undisputed that Respondent did not disclose his criminal history to the Department in his applications. Respondent represented that he had never been convicted of a felony or had judgment deferred, when in fact, he had. To show a violation of Texas Insurance Code section 4005.101(b)(2) and (3), Staff is required to prove that Respondent *intentionally* misrepresented a material fact on his application.<sup>36</sup> Simply incorrectly answering questions is not sufficient evidence of fraud or intent to misrepresent. Staff's evidence however, did show the requisite intent on Respondent's part.

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<sup>35</sup> 28 Tex. Admin. Code § 1.502(e)(4)(G).

<sup>36</sup> Tex. Ins. Code § 4005.101(b)(2), (3). Section 4005.101(b)(3) prohibits attempting to obtain a license by fraud or misrepresentation. Fraud and misrepresentation are not defined. At common law, misrepresentation is defined as the act or an instance of making a materially false or misleading assertion about something, with the intent to deceive. An assertion need not be fraudulent to amount to a misrepresentation, but it must be important enough to be considered material. *Misrepresentation*, Black's Law Dictionary (11th ed. 2019). Fraud is defined as a knowing misrepresentation or knowing concealment of a material fact made to induce another to act to his or her detriment. *Fraud*, Black's Law Dictionary (11th ed. 2019). The language of the statute makes clear that a necessary element of this violation is the intent to obtain a license through a misrepresentation.

The ALJ finds Respondent’s explanation that the criminal history question pertained only to the present and not past and that the Department would find out about his criminal history through a background check unpersuasive. The question in the application is not confusing or ambiguous, it clearly ask, “Have you ever been convicted of a felony, had a judgment withheld or differed, or are you currently charged with committing a felony?”<sup>37</sup> The preponderant evidence shows that Respondent was aware that the question asked about past and present felony convictions and that he intentionally answered falsely as to his criminal history when he was applying for the license. Accordingly, the Department *may* deny Respondent’s license based on his intentional misrepresentation.

The next analytical step is to consider whether Respondent should be denied a license pursuant to Texas Occupations Code section 53.023(a). The evidence shows that Respondent’s criminal history extends from 2003 to 2017; and that it includes two felony convictions in 2003 and 2009 and a deferred adjudication in 2017. Respondent was 27, 35, and 39 years old at the time of his offenses; therefore, his offenses cannot be considered youthful indiscretions. It has been eight years since his last offense, and four years since he has been released from supervision. No evidence was provided of Respondent’s rehabilitation or rehabilitative effort while incarcerated or following release.

Mitigating these factors are Respondent’s work history before and after the most recent criminal offense, his compliance with the terms of the supervision and restitution, and evidence of his present fitness. Respondent has had steady

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<sup>37</sup> Staff Ex. 2 at 32.

employment before and after his most recent offense. He was released from supervision in 2020, after successfully completing it. There is also no evidence of any other criminal activity after Respondent's deferred adjudication. Respondent also took responsibility for his past mistakes.

Respondent's character letters spoke highly of him and generally described Respondent as reliable, hardworking, helpful, smart, talented, responsible, professional, honest, and loyal, despite his criminal history. However, the written recommendations do not make clear whether the individuals were knowledgeable about the extent and nature of Respondent's criminal history.

While Respondent appears to be making significant strides toward rehabilitation, the ALJ finds that, given the nature and severity of his criminal activity, insufficient time has passed to demonstrate that he is reformed. Only four years have passed since he completed his supervision. Accordingly, the ALJ concludes that the mitigating evidence does not outweigh the seriousness of the criminal offense, and Respondent has not shown his fitness for licensure. Moreover, Respondent intentionally made a material misstatement in his license applications and attempted to obtain the licenses by misrepresentation. Therefore, the Department should not issue Respondent life agent and an adjuster-all lines licenses at this time. In support of this recommendation, the ALJ makes the following Findings of Fact and Conclusions of Law.

**V. FINDINGS OF FACT**

1. In June and October 2022, Abel Nnabue (Respondent) applied for a life agent and an adjuster-all lines licenses with the Texas Department of Insurance (Department).
2. On his applications, Responded answered “No” to a question that asked whether he has ever been convicted of a felony, had a judgment withheld or deferred, or currently charged with committing a felony.
3. In November 2022, staff (Staff) of the Department proposed to deny Respondent’s applications.
4. Respondent timely requested a hearing to challenge the denials.
5. On June 26, 2024, the Department referred this matter to the State Office of Administrative Hearings (SOAH) for a hearing.
6. On June 27, 2024, Staff issued a notice of hearing and Original Petition.
7. The notice of hearing, together with the petition, 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 incorporated by reference the factual matters asserted in the complaint or petition filed with the state agency.
8. The hearing in this case was held by videoconference on December 18, 2024, before SOAH Administrative Law Judge Katerina DeAngelo. Attorneys Victor Moya, III and Stephanie Andrews represented Staff, and Respondent represented himself. The record closed on January 14, 2025, with the filing of the hearing transcript.
9. On May 3, 2003, Respondent pleaded guilty to and was convicted of the felony offense of attempted bank fraud in the United States District Court for the Western District of Washington at Seattle, in Cause No. CR 03-11 C. The offense took place in 2002. Respondent was 27 years old at the time.

Respondent was sentenced to one year and one day in prison, a supervised release for three years, and a monetary penalty of \$100.

10. On January 30, 2009, Respondent pleaded guilty to and was convicted of the felony offense of conspiracy to commit bank fraud in the United States District Court for the Eastern District of Virginia, Alexandria Division, in Cause No. 1:08cr385. The offense took place in 2007 and 2008. Respondent was 35 years old at the time. Respondent was sentenced to 54 months confinement and was ordered to pay restitution of \$127,320.
11. On January 18, 2017, Respondent pleaded guilty to and was sentenced to four years deferred adjudication for the felony offense of possession of a controlled substance in Cause No. F15-2614-211 in the 211th District Court of Denton County, Texas. Respondent was ordered to pay fine of \$1,000. The offense took place in 2014. Respondent was 39 years old at the time.
12. On December 16, 2020, Respondent was discharged from community supervision.
13. The crime of possession of a controlled substance is not directly related to the duties and responsibilities of the licensed occupation.
14. Respondent's two felony convictions are of such a serious nature that the Department considers them to be of prime importance in determining whether to issue a license.
15. Respondent's felony offenses were not youthful indiscretions.
16. It has been eight years since Respondent's most recent offense, and four years since he has been released from supervision.
17. Respondent has been consistently employed, both before and after his most recent criminal offense.
18. There is no evidence of any criminal activity after Respondent's most recent criminal offense.
19. Respondent complied with the terms of the supervision and restitution.

20. Respondent is described as reliable, hardworking, helpful, smart, talented, responsible, professional, honest, and loyal.
21. Individuals addressing Respondent's character do not reveal whether they are aware of the extent and nature of his criminal history.
22. No evidence was provided of Respondent's rehabilitation or rehabilitative effort while incarcerated or following release.
23. Respondent takes responsibility for his crimes.
24. Respondent intentionally made a material misstatement on his license applications.
25. Respondent attempted to obtain a license by fraud or misrepresentation.
26. Respondent is not fit for licensure by the Department at this time.

## **VI. CONCLUSIONS OF LAW**

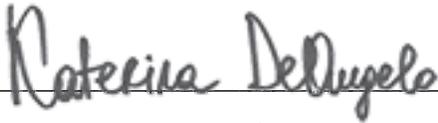
1. The Department has jurisdiction over this matter. Tex. Ins. Code §§ 4001.002, .105, 4005.101.
2. SOAH has authority to hear this matter and issue a proposal for decision with findings of fact and conclusions of law. Tex. Gov't Code ch. 2003; Tex. Ins. Code § 4005.104.
3. Respondent received timely and sufficient notice of the hearing. Tex. Gov't Code §§ 2001.051-.052; Tex. Ins. Code § 4005.104(b).
4. Staff has the burden to prove by a preponderance of the evidence that grounds exist to deny Respondent's applications; while Respondent has the burden to prove by a preponderance of the evidence that he is fit to perform the duties and discharge the responsibilities of the licensed occupation despite his criminal background and/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. Texas St. Bd. of Med. Exam'rs*, 172 S.W.3d 761, 777 (Tex. App.—Austin 2005, no pet.).
6. The Department may deny a license application if the applicant has intentionally made a material misstatement in the license application; has obtained or attempted to obtain a license by fraud or misrepresentation; has engaged in fraudulent or dishonest acts or practices; has been convicted of a felony; or has been convicted of an offense directly related to the duties and responsibilities of the licensed occupation. Tex. Ins. Code § 4005.101(b)(2), (3), (5), (8); 28 Tex. Admin. Code § 1.502(d).
7. The Department may deny Respondent's license applications because he intentionally did not disclose his criminal history when he was applying for the licenses. Tex. Ins. Code § 4005.101(b)(2), (3), (5); 28 Tex. Admin. Code § 1.502(d).
8. The Department may deny Respondent's license applications because he has been convicted of felonies. Tex. Ins. Code § 4005.101(b)(8); 28 Tex. Admin. Code § 1.502(d).
9. Respondent's felony offenses, attempted bank fraud and conspiracy to commit bank fraud, are the type that the Department considers to be of such a serious nature that it is of prime importance in determining fitness for licensure. 28 Tex. Admin. Code § 1.502(e)(1).
10. The Department has determined that the crimes it considers to be of prime importance are directly related to the occupations it licenses. 28 Tex. Admin. Code § 1.502(e).
11. The Department may deny Respondent's license applications because his felony offenses are directly related to the duties and responsibilities of the licensed occupation. Tex. Occ. Code § 53.021(a)(1); 28 Tex. Admin. Code § 1.502(d), (e)(1).
12. The Department may not consider Respondent's deferred adjudication to be a conviction for licensing purposes.

13. For applicants with criminal convictions, the Department considers the factors specified in Texas Occupations Code sections 53.022 and .023 in determining whether to grant a license. 28 Tex. Admin. Code § 1.502(h).
14. The Department shall not issue a license unless the mitigating evidence outweighs the serious nature of the criminal offense when viewed in the light of the occupation being licensed. 28 Tex. Admin. Code § 1.502(f), (h).
15. The mitigating evidence does not outweigh the seriousness of Respondent's criminal offenses, and he has not shown his fitness to perform the duties and discharge the responsibilities of the licensed occupation. Tex. Occ. Code § 53.023; 28 Tex. Admin. Code § 1.502(g).
16. The Department should deny Respondent's applications for licensure at this time.

**Signed February 11, 2025.**

ALJ Signature:



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Katerina DeAngelo

Presiding Administrative Law Judge

2025-9365

**Exhibit B**

# State Office of Administrative Hearings

ACCEPTED  
454-24-20864  
3/14/2025 3:38:57 pm  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Kevin Garza, CLERK

Kristofer S. Monson  
Chief Administrative Law Judge

March 14, 2025

FILED  
454-24-20864  
3/14/2025 2:51 PM  
STATE OFFICE OF  
ADMINISTRATIVE HEARINGS  
Kevin Garza, CLERK

Jodie Delgado, Leah Gillum,  
Ginger Loeffler, Victor Moy

VIA EFILE TEXAS

Abel Nnabue

VIA EFILE TEXAS

**RE: Docket Number 454-24-20864.C;**  
***Texas Department of Insurance v. Abel Nnabue***

Dear Parties:

The Administrative Law Judge (ALJ) issued a Proposal for Decision (PFD) in this matter on February 11, 2025. The Texas Department of Insurance (Department) filed exceptions to the PFD on February 26, 2025. Respondent, Abel Nnabue, did not file any exceptions or response to the Department's exceptions.

Having reviewed the exceptions, the ALJ makes the following changes to the PFD:

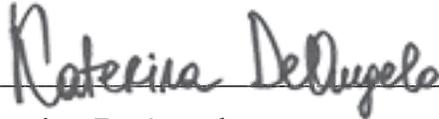
1. Revising Finding of Fact No. 2 to: On his applications, Respondent answered "No" to a question that asked whether he has ever been convicted of a felony, had a judgment withheld or deferred, or currently charged with committing a felony.

2. Revising Finding of Fact No. 10 to: On January 30, 2009, Respondent pleaded guilty to and was convicted of the felony offense of conspiracy to commit bank fraud in the United States District Court for the Eastern District of Virginia, Alexandria Division, in Cause No. 1:08cr385. The offense took place in 2007 and 2008. Respondent was 35 years old at the time. Respondent was sentenced to 54 months confinement and a supervised release for four years. Respondent was ordered to pay restitution of \$127,320.
3. Adding Finding of Fact after Finding of Fact No. 17 to say: Respondent provided a resume indicating that he held a life insurance license, which he did not.
4. Adding Finding of Fact after Finding of Fact No. 25 to say: Respondent engaged in fraudulent or dishonest acts or practices.
5. Re-numbering the Findings of Fact to account for the additions.
6. Removing the existing Conclusion of Law No. 7.
7. Adding the following Conclusions of Law after Conclusion of Law No. 6:
  - Conclusion of Law No. 7. The Department may deny Respondent's license applications because he intentionally made a material misstatement on the application. Tex. Ins. Code § 4005.101(b)(2).
  - Conclusion of Law No. 8. The Department may deny Respondent's license applications because he obtained or attempted to obtain a license by fraud of misrepresentation. Tex. Ins. Code § 4005.101(b)(3).
  - Conclusion of Law No. 9. The Department may deny Respondent's license applications because he engaged in fraudulent or dishonest acts or practices. Tex. Ins. Code § 4005.101(b)(5).

8. Re-numbering the Conclusions of Law to account for the additions.
9. Revising Conclusion of Law No. 12 to: The Department may not consider Respondent's deferred adjudication to be a conviction for licensing purposes. However, it may be used to demonstrate Respondent made a material misstatement in his application, attempted to obtain a license by fraud or misrepresentation, and shows he was engaging in fraudulent or dishonest acts or practices per Texas Insurance Code sections 4005.101(b)(2), (3), and (5).

The ALJ declines to further amend the PFD. The ALJ declines to add proposed Finding of Fact Nos. 13 and 24, because the existing Finding of Fact Nos. 2 and 24 already states that Respondent failed to disclose his felony offenses and that his misstatement was intentional. There is no evidence that Respondent claimed that his life insurance license in his resume meant to be a Texas license, therefore, the ALJ declines to make such representation. With this letter, the PFD is ready for consideration.

ALJ Signature:



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Katerina DeAngelo,  
Presiding Administrative Law Judge