

No. **2020-6600**

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

**Date: 12/10/2020**

**Subject Considered:**

Texas Department of Insurance

v.

Jonathan Ray Henderson

SOAH Docket No. 454-20-1645.C

**General remarks and official action taken:**

The subject of this order is Jonathan Ray Henderson's application for a general lines agent license with a life, accident, and health qualification.

**Background**

After proper notice was given, this 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. Henderson's application for a license. A copy of the proposal for decision is attached as Exhibit A.

TDI adopts the administrative law judge's recommendation to deny Mr. Henderson's application for a license, with the change to the proposal for decision described in this order.

**Change to Finding of Fact No. 7**

The legal authority for the change to the proposal for decision made in this order is TEX. GOV'T CODE § 2001.058(e)(3), which provides "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."

COMMISSIONER'S ORDER  
TDI v. Jonathan Ray Henderson  
SOAH Docket No. 454-20-1645.C  
Page 2 of 3

In Finding of Fact no. 7, the administrative law judge notes that Mr. Henderson pleaded guilty to theft from a person, and that he was ordered to pay restitution. However, the finding contains a typographical error in the dollar amount of the restitution Mr. Henderson was ordered to pay. The dollar amount incorrectly has a comma instead of a period. This error is corrected by this order.

As submitted in the proposal for decision, proposed Finding of Fact no. 7 states:

On September 6, 2011, Mr. Henderson pleaded guilty to theft from a person, a state jail felony, in Cause No. 11-074-K277, in the 277th Judicial District Court in Williamson County, Texas. Adjudication was deferred, and Mr. Henderson was placed on community supervision for five years. He was ordered to pay \$4,051,45 in restitution. Mr. Henderson's community supervision was revoked and his guilt adjudicated on September 4, 2014. He was then sentenced to six months' confinement in Williamson County jail.

In this order, proposed Finding of Fact no. 7 is changed to state:

On September 6, 2011, Mr. Henderson pleaded guilty to theft from a person, a state jail felony, in Cause No. 11-074-K277, in the 277th Judicial District Court in Williamson County, Texas. Adjudication was deferred, and Mr. Henderson was placed on community supervision for five years. He was ordered to pay \$4,051.45 in restitution. Mr. Henderson's community supervision was revoked and his guilt adjudicated on September 4, 2014. He was then sentenced to six months' confinement in Williamson County jail.

### **Findings of Fact**

1. Findings of Fact nos. 1-6, and 8-22 as contained in Exhibit A are adopted by the Texas Department of Insurance and incorporated by reference into this order.
2. In place of Finding of Fact no. 7 as proposed in Exhibit A, TDI adopts the following finding of fact:

On September 6, 2011, Mr. Henderson pleaded guilty to theft from a person, a state jail felony, in Cause No. 11-074-K277, in the 277th Judicial



<b>TEXAS DEPARTMENT OF INSURANCE</b>	§	<b>BEFORE THE STATE OFFICE</b>
v.	§	<b>OF</b>
<b>JONATHAN RAY HENDERSON,</b>	§	<b>ADMINISTRATIVE HEARINGS</b>
<b>Applicant</b>	§	

**PROPOSAL FOR DECISION**

The staff (Staff) of the Texas Department of Insurance (Department) seeks to deny the application of Jonathan Ray Henderson for a general lines agent license based on his criminal history. After considering the evidence and the applicable law, the Administrative Law Judge (ALJ) recommends the Department deny Mr. Henderson’s license application.

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

The hearing in this case was held via Zoom videoconference on September 8, 2020, before ALJ Rebecca S. Smith at the State Office of Administrative Hearings. Staff was represented by staff attorney Sarah White. Mr. Henderson was represented by attorney Jason Danowsky. The hearing concluded and the record closed the same day. Notice and jurisdiction were not disputed and are set out in the Findings of Fact and Conclusions of Law below.

**II. DISCUSSION**

**A. Background**

On September 6, 2011, Mr. Henderson pleaded guilty to theft from a person, a state jail felony, in Cause No. 11-074-K277, in the 277th Judicial District Court in Williamson County, Texas.<sup>1</sup> Adjudication was deferred, and Mr. Henderson was placed on community supervision for five years. He was ordered to pay \$4,051.45 in restitution. Mr. Henderson’s community supervision was revoked and his guilt adjudicated on September 4, 2014. He was then sentenced to six months’ confinement in the Williamson County jail.

---

<sup>1</sup> Staff Ex. 8. The offense occurred on or about January 13, 2011.

On September 12, 2013, Mr. Henderson pleaded guilty to evading arrest, a misdemeanor, in Cause Number 1371873 CR, in the County Court at Law in Hays County, Texas.<sup>2</sup> Mr. Henderson was sentenced to 20 days' confinement in the Hays County jail and ordered to pay court costs.

On August 27, 2013, Mr. Henderson pleaded guilty to theft of property between \$50 and \$500, a misdemeanor, in Cause Number 13-04489-1 in County Court at Law #1 in Williamson County, Texas.<sup>3</sup> Mr. Henderson was sentenced to 90 days' confinement in the Williamson County jail and ordered to pay court costs.

On September 27, 2016, Mr. Henderson pleaded guilty to theft of property with a value less than \$2,500, in Cause Number F-1539602-Q in the 204th Judicial District Court in Dallas County, Texas.<sup>4</sup> His two previous theft convictions made his crime a state jail felony. Mr. Henderson was sentenced to 210 days' confinement in the Dallas County jail and ordered to pay court costs.

On October 6, 2016, Mr. Henderson pleaded guilty to resisting arrest, a misdemeanor, in Cause Number MA1620388 in County Criminal Court #7 in Dallas County, Texas.<sup>5</sup> Mr. Henderson was sentenced to 30 days' confinement in the Dallas County jail.

On October 6, 2016, Mr. Henderson pleaded guilty to being a fugitive and providing a false name while being lawfully arrested, a misdemeanor, in Cause Number MA1620389 in County Criminal Court #7 in Dallas County, Texas.<sup>6</sup> Mr. Henderson was sentenced to 30 days' confinement in the Dallas County jail to run concurrently with the sentence for resisting arrest.

On December 9, 2016, Mr. Henderson pleaded guilty to possession of marijuana, a misdemeanor, in Cause Number 15-01958-2 in County Court at Law #2 in Williamson County,

---

<sup>2</sup> Staff Ex. 9. The offense occurred on or about May 4, 2013.

<sup>3</sup> Staff Ex. 10. The offense occurred on or about June 3, 2013.

<sup>4</sup> Staff Ex. 11. The offense occurred on or about December 29, 2015.

<sup>5</sup> Staff Ex. 12. The offense occurred on or about September 19, 2016.

<sup>6</sup> Staff Ex. 13. The offense occurred on or about September 19, 2016.

Texas.<sup>7</sup> Mr. Henderson was sentenced to 15 days' confinement in the Williamson County jail, had his driver's license suspended for 180 days, and was ordered to pay court costs.

On February 7, 2017, Mr. Henderson pleaded guilty to theft, a misdemeanor, in Cause Number 15-2778-CR in the County Court at Law in Hays County, Texas.<sup>8</sup> Mr. Henderson was sentenced to 30 days' confinement in the Hays County jail and ordered to pay court costs.<sup>9</sup>

On April 10, 2018, Mr. Henderson applied for a general lines agent license with a life, accident, and health qualification with the Department. On August 30, 2018, Staff proposed to deny his application based on his prior criminal record. Mr. Henderson timely requested a hearing.<sup>10</sup>

## **B. Applicable Law**

The Department may deny a license to an applicant who has engaged in fraudulent or dishonest acts or practices or who has been convicted of a felony.<sup>11</sup> To guide its decision making, the Department has set out certain crimes that it considers to be of such a serious nature that they are of prime importance in determining fitness for licensure.<sup>12</sup> These crimes include theft and any offense for which fraud, dishonesty, or deceit is an essential element.<sup>13</sup> The Department may also deny a license to an applicant who has been convicted of an offense that directly relates to the duties and responsibilities of the licensed occupation.<sup>14</sup> The Department has determined that the

---

<sup>7</sup> Staff Ex. 14. The offense occurred on or about March 18, 2015.

<sup>8</sup> Staff Ex. 15. The offense occurred on or about January 26, 2014.

<sup>9</sup> Staff introduced an exhibit and presented testimony that Mr. Henderson has a pending charge for possession of marijuana. The ALJ will not consider pending charges as evidence of fitness for licensure. Tex. Occ. Code § 53.0231 ("For purposes of determining a person's fitness to perform the duties and discharge the responsibilities of the licensed occupation, a licensing authority may not consider an arrest that did not result in the person's conviction or placement on deferred adjudication community supervision.").

<sup>10</sup> Staff Ex. 4.

<sup>11</sup> Tex. Ins. Code § 4005.001(b)(5), (8).

<sup>12</sup> 28 Tex. Admin. Code § 1.502(e)(1), (4)(F).

<sup>13</sup> 28 Tex. Admin. Code § 1.502(e)(1), (4)(F).

<sup>14</sup> Tex. Occ. Code § 53.021(a)(1).

crimes it considers to be of prime importance are also directly related to the occupations it licenses.<sup>15</sup>

The Department considers the factors listed in Texas Occupations Code §§ 53.022 and 53.023 in determining whether to grant a license to an applicant with criminal convictions.<sup>16</sup> Under its rules, the Department is to deny a license application unless it finds these factors outweigh the seriousness of the criminal offense.<sup>17</sup>

The first set of factors that the Department considers are those that are used to determine whether a conviction directly relates to the 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 the license might offer the ability or capacity required to perform the duties and discharge the responsibilities of the licensed occupation; and
4. any correlation between the elements of the crime and the duties and responsibilities of the licensed occupation.<sup>18</sup>

The Department must also consider the following factors related to fitness:

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; and

---

<sup>15</sup> 28 Tex. Admin. Code § 1.502(e).

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

<sup>17</sup> 28 Tex. Admin. Code § 1502(f).

<sup>18</sup> Tex. Occ. Code § 53.022.

6. other evidence of the person's present fitness, including letters of recommendation from:
  - a. prosecutors and law enforcement and correctional officers who prosecuted, arrested, or had custodial responsibility for the person;
  - b. the sheriff or chief of police in the community where the person resides; and
  - c. any other persons in contact with the convicted person; and
7. proof furnished by the applicant that the applicant has:
  - a. maintained a record of steady employment;
  - b. supported the applicant's dependents;
  - c. maintained a record of good conduct; and
  - d. paid all outstanding court costs, supervision fees, fines, and restitution ordered in any criminal case in which the applicant or holder has been convicted.<sup>19</sup>

### **C. Evidence**

Staff offered sixteen exhibits, which were admitted into evidence. Staff also offered the testimony of Lewis Weldon Wright, IV, an Administrative Review Liaison for the Department. Mr. Henderson called Shaughnna Blackmon and Jordan Chanslor as witnesses and testified on his own behalf. He also offered five exhibits, which were admitted.

#### **1. Testimony of Mr. Wright**

Mr. Wright testified that the Department has a two-tier process for reviewing applications. In the first tier, the Department checks to ensure an application is complete and includes the appropriate fee. If an application raises no concerns, then the Department issues a license. If an application raises concern, then it goes to the second tier, which is called administrative review. Mr. Wright works in administrative review. As part of administrative review, Mr. Wright requests additional information from an applicant and makes a recommendation about licensure.

---

<sup>19</sup> Tex. Occ. Code § 53.023. This PFD is referring to the law that was in effect at the time of the application.



Mr. Wright testified that the duties of an agent are to represent the insurance company in presenting its insurance product, explain coverage, and quote prices. He also testified that a license conveys to the public that the Department has deemed a person trustworthy.

Mr. Wright noted that Mr. Henderson disclosed his criminal history in his application. That criminal history, particularly his four theft-related convictions, is the basis for denying Mr. Henderson's application. Mr. Wright also described Mr. Henderson's conviction for failure to identify himself as involving dishonesty. Additionally, he expressed concern with Mr. Henderson's pattern of recidivism. He also focused on the recentness of some of Mr. Henderson's convictions.

## **2. Testimony of Mr. Chanslor**

Mr. Chanslor, a licensed agent, testified that he knows Mr. Henderson through work. The agency where both men work attempts to get health insurance to people in impoverished areas. Mr. Henderson delegates what areas the agents work in. Mr. Chanslor testified that he is familiar with Mr. Henderson's criminal history; he indicated that Mr. Henderson brings the topic up on his own. Mr. Chanslor testified that Mr. Henderson will bring into the office books on self-improvement, history, and power dynamics in America. He also testified that Mr. Henderson will go out of his way to give him a friendly call to see how he is doing.

## **3. Testimony of Ms. Blackmon**

Ms. Blackmon owns the REAL Insurance Lady, the agency where Mr. Henderson works. She is also his aunt. Ms. Blackmon has been licensed by the Department for sixteen years and has never been the subject of a Department complaint during that time. She also had a criminal background that required her to obtain a waiver from the Commissioner of Insurance to be licensed.

Ms. Blackmon was aware of Mr. Henderson's criminal background when she hired him. She placed him in a role that would allow him to grow and to progressively earn more responsibility. She explained to him that the agency is her livelihood and that this could be a turning point for him. She testified that it is important to protect her customers first. She added

that she is proud to provide the opportunity for her agents to improve their lives; 90% of her licensed staff had a history of convictions. None of them has ever been the subject of a Department complaint. She monitors her staff well and provides them with training. Her staff members understand the need for integrity.

Mr. Henderson began his work for the agency on the lead-generation street team, where he would acquire leads and turn them over to a licensed agent. He is now the only non-licensed member of the leadership team. He performs marketing, leads the lead distribution team, handles social media, and processes client payments. As part of his outreach work, he has coordinated food drives, back-to-school drives, and the distribution of water. He also has access to the agency's fleet and debit card. Based on all of the responsibility he has shown, Ms. Blackmon believes that Mr. Henderson has the fitness to be an agent.

#### **4. Testimony of Mr. Henderson**

Mr. Henderson testified that, with the exception of a pending charge, his criminal history dates from the period when he was 18 until he was 23. He added that it has been almost four years since his last commission of a crime involving dishonesty or theft.

Mr. Henderson began working for Ms. Blackmon's agency in October or November 2016. His first assignments were generating leads and then passing them on. His duties eventually increased, and now he supervises the street team. He confirmed that he currently has a company card and that he has access to customers' credit or debit card information.

Mr. Henderson also described his efforts at self-improvement. He has read and discussed many self-improvement books and has maintained a regular meditation practice for three or four years.

He offered several letters of reference into evidence. He testified that the people who wrote those letters were generally familiar with his criminal history, even though the letters themselves do not make that clear. The letters are from people Mr. Henderson has known for a long time.

Mr. Henderson has complied with all the terms of his judgments and has paid all fines, restitution amounts, and fees. He has also maintained steady employment and has no dependents.

## **5. Letters of Reference**

The three reference letters Mr. Henderson introduced praise his work ethic, his ability to learn from past mistakes, and his professional integrity.<sup>20</sup> As discussed above, no letters specifically mention Mr. Henderson's convictions.

## **D. Analysis**

Under Texas Insurance Code § 4005.101(b)(5), the Department may deny a license application if the Department determines that the applicant has engaged in fraudulent or dishonest acts or practices. The Department may also deny a license application if the applicant has been convicted of a felony, as contemplated by Texas Insurance Code § 4005.101(b)(8).

Pursuant to 28 Texas Administrative Code § 1.502(h), the Department will consider the factors listed in Texas Occupations Code §§ 53.022 and 53.023, set out above, in determining whether to grant Mr. Henderson's license application. Regarding these factors, the evidence established that Mr. Henderson pleaded guilty to four different counts of theft; those theft offenses make up half of the eight crimes to which he has pleaded guilty. His conviction for providing a false name to the police involves dishonesty. Approximately four years have elapsed since Mr. Henderson last committed an offense for which he was convicted. Mr. Henderson was young when he committed the crimes. Mr. Henderson has worked steadily for the last several years, with increasing responsibility. He has paid all ordered fines, restitution, and fees. He has focused on rehabilitation through his own studies and meditation practice. His letters of recommendation are positive, and although the letters themselves do not mention his criminal history, according to Mr. Henderson, the authors of those letters are aware of it. Mr. Henderson also has a supportive employer and family members to help him.

---

<sup>20</sup> App. Exs. 1-3.

Although Mr. Henderson's description of his improvement was credible, the ALJ finds that, given the number of theft offenses, not enough time has passed since his last theft offense to show his fitness. In making this finding, the ALJ is also influenced by the fact that theft is one of the offenses of particular concern to the Department. Mr. Henderson appears to be on a good path, and has a good support system. He just has not yet shown his fitness for licensure, and the ALJ cannot say that the mitigating factors outweigh the seriousness of his convictions.

Accordingly, the ALJ concludes that Mr. Henderson's application for a general lines agent license with a life, accident, and health qualification license should be denied. In support of this recommendation, the ALJ makes the following findings of fact and conclusions of law.

### III. FINDINGS OF FACT

1. On April 10, 2018, Jonathan Henderson applied for a general lines agent license with a life, accident, and health qualification with the Texas Department of Insurance (Department).
2. On August 30, 2018, the staff (Staff) of the Department proposed to deny his application based on his criminal history
3. Mr. Henderson requested a hearing to challenge the denial.
4. On December 17, 2019, Staff issued a notice of hearing on the denial of his application.
5. 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.
6. The hearing in this case was held via Zoom videoconference on September 8, 2020, before Administrative Law Judge Rebecca S. Smith at the State Office of Administrative Hearings. Staff was represented by staff attorney Sarah White. Mr. Henderson was represented by attorney Jason Danowsky. The hearing concluded and the record closed the same day.
7. On September 6, 2011, Mr. Henderson pleaded guilty to theft from a person, a state jail felony, in Cause No. 11-074-K277, in the 277th Judicial District Court in Williamson County, Texas. Adjudication was deferred, and Mr. Henderson was placed on community supervision for five years. He was ordered to pay \$4,051,45 in restitution. Mr. Henderson's community supervision was revoked and his guilt adjudicated on September 4, 2014. He was then sentenced to six months' confinement in Williamson County jail.

8. On September 12, 2013, Mr. Henderson pleaded guilty to evading arrest, a misdemeanor, in Cause No. 1371873 CR, in the County Court at Law in Hays County, Texas. Mr. Henderson was sentenced to 20 days' confinement in the Hays County jail and ordered to pay court costs.
9. On August 27, 2013, Mr. Henderson pleaded guilty to theft of property between \$50 and \$500, a misdemeanor, in Cause Number 13-04489-1 in County Court at Law #1 in Williamson County, Texas. Mr. Henderson was sentenced to 90 days' confinement in the Williamson County jail and ordered to pay court costs.
10. On September 27, 2016, Mr. Henderson pleaded guilty to theft of property with a value less than \$2,500, in Cause Number F-1539602-Q in the 204th Judicial District Court in Dallas County, Texas. His two previous theft convictions made his crime a state jail felony. Mr. Henderson was sentenced to 210 days' confinement in the Dallas County jail and ordered to pay court costs.
11. On October 6, 2016, Mr. Henderson pleaded guilty to resisting arrest, a misdemeanor, in Cause Number MA1620388 in County Criminal Court #7 in Dallas County, Texas. Mr. Henderson was sentenced to 30 days' confinement in the Dallas County jail.
12. On October 6, 2016, Mr. Henderson pleaded guilty to being a fugitive and providing a false name while being lawfully arrested, a misdemeanor, in Cause Number MA1620389 in County Criminal Court #7 in Dallas County, Texas. Mr. Henderson was sentenced to 30 days' confinement in the Dallas County jail to run concurrently with the sentence for resisting arrest.
13. On December 9, 2016, Mr. Henderson pleaded guilty to possession of marijuana, a misdemeanor, in Cause Number 15-01958-2 in County Court at Law #2 in Williamson County, Texas. Mr. Henderson was sentenced to 15 days' confinement in the Williamson County jail, had his driver's license suspended for 180 days, and was ordered to pay court costs.
14. On February 7, 2017, Mr. Henderson pleaded guilty to theft, a misdemeanor, in Cause Number 15-2778-CR in the County Court at Law in Hays County, Texas. Mr. Henderson was sentenced to 30 days' confinement in the Hays County jail and ordered to pay court costs.
15. Mr. Henderson pleaded guilty to four different counts of theft; those theft offenses make up half of the eight crimes to which he has pleaded guilty.
16. Mr. Henderson's offense for providing a false name involves dishonesty.
17. Approximately four years have elapsed since Mr. Henderson's last offense.
18. Mr. Henderson has worked steadily for the last several years, with increasing responsibility.

19. Mr. Henderson has paid all ordered fines, restitution, and fees.
20. Mr. Henderson has focused on rehabilitation by reading and discussing self-improvement books and through a meditation practice.
21. Three people who know Mr. Henderson well wrote him letters of recommendation praising his work ethic and personal growth, but not mentioning his criminal history.
22. The mitigating factors Mr. Henderson established do not outweigh the serious nature of his criminal offenses, particularly his theft offenses, when viewed in the light of the occupation being licensed.

#### **IV. 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. Henderson received timely and sufficient notice of hearing. Tex. Gov't Code §§ 2001.051-.052.; Tex. Ins. Code § 4005.104(b).
4. 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).
5. The Department may also deny a license to an applicant who 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).
6. 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 theft and any offense for which fraud, dishonesty, or deceit is an essential element. 28 Tex. Admin. Code § 1.502(e)(1), (4)(F).
7. The Department will consider the factors listed in Texas Occupations Code §§ 53.022 and 53.023 in determining whether to issue a license to an applicant with a criminal history and will not issue a license unless those mitigating factors outweigh the serious nature of the criminal offense when viewed in the light of the occupation being licensed. 28 Texas Administrative Code § 1.502(g), (h).

8. The Department should deny Mr. Henderson's application for a license.

**SIGNED October 28, 2020.**

  
REBECCA S. SMITH  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS