

No. 2021-6856

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

Date: 06/08/2021

Subject Considered:

Marcus Leroy Stockton
[REDACTED]
Martinsville, VA 24112

Consent Order
TDI Enforcement File No. 25852

General remarks and official action taken:

The subject of this consent order is whether an Adjuster All Lines Designated Home State (DHS) Texas license should be issued to Marcus Leroy Stockton (Stockton). The Texas Department of Insurance proposed to deny the license due to Stockton's criminal history. Stockton has provided rehabilitative evidence that outweighs the serious nature of his criminal history. This order grants Stockton an Adjuster All Lines DHS Texas license subject to the terms of the four-year probated suspension detailed in this order.

Waiver

Stockton acknowledges the Texas Insurance Code and other applicable law provide certain rights. Stockton waives all of these rights, and any other applicable procedural rights, in consideration of the entry of this consent order.

Findings of Fact

License Application

1. On July 1, 2020, Stockton applied for an Adjuster All Lines DHS Texas license to be issued by the Texas Department of Insurance.

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Criminal History

2. On October 6, 2000, Stockton pled guilty to Voluntary Manslaughter, a felony, in Case No. 00000272 in the Circuit Court of the City of Martinsville, Virginia. He was sentenced to a total of ten years, to serve three years confinement and the remaining seven on probation. Stockton served his three years confinement and was released from probation on May 22, 2009.
3. On April 8, 2000, Stockton was at a friend's apartment when another person came over and began to confront him. Stockton and this individual had fought previously. The argument became heated, both men were armed, drew their weapons, and fired on one another. Stockton wasn't hit, but the other man was. Stockton turned himself in a week later when he found out the man died.
4. Stockton disclosed to the department that in May 1997, he was found guilty of misdemeanor Possession of Marijuana in the General District Court of Martinsville, Virginia.

Evidence of Rehabilitation

5. Stockton cooperated with the department's requests during the investigation of his criminal background. He provided evidence of his rehabilitation in support of his fitness for licensure.
6. In accordance with the requirements of TEX. OCC. CODE § 53.025, the department has developed guidelines relating to the matters the department considers when determining whether to grant, deny, suspend, or revoke any license or authorization under its jurisdiction, as described in 28 TEX. ADMIN. CODE § 1.502(e)-(k).
7. Pursuant to 28 TEX. ADMIN. CODE § 1.502(f), the department may issue a license if the applicant has engaged in criminal activity if the commissioner determines that the serious nature of the criminal activity is outweighed by the rehabilitative factors described in 28 TEX. ADMIN. CODE § 1.502(h).
8. 28 TEX. ADMIN. CODE § 1.502(h) and TEX. OCC. CODE §§ 53.022 and 53.023 provide numerous factors that the department must consider in determining whether the provided rehabilitative evidence outweighs the serious nature of the applicant's criminal history.

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9. TEX. OCC. CODE § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1) describe the initial factors the department must consider in determining whether issuance of the license is appropriate:

FACTORS IN DETERMINING WHETHER CONVICTION DIRECTLY RELATES TO OCCUPATION. In determining whether a criminal conviction directly relates to the duties and responsibilities of a licensed occupation, the licensing authority shall consider each of the following factors:

- (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.
10. Considering the factors outlined in TEX. OCC. CODE § 53.022 and 28 TEX. ADMIN. CODE § 1.502(h)(1), Stockton's conviction for possession of marijuana does not directly relate to the occupation of an adjuster; however, his conviction for voluntary manslaughter is serious in nature and directly relates to the licensed occupation. 28 TEX. ADMIN. CODE § 1.502(e)(4)(A). Stockton's conviction affects his ability and capacity because of "the special nature of the relationship between licensees ... and the public with respect to insurance and related businesses regulated by the department requires that the public place trust in and reliance upon such persons due to the complex and varied nature of insurance and insurance-related products." 28 TEX. ADMIN. CODE § 1.502(a).
11. TEX. OCC. CODE § 53.023 and 28 TEX. ADMIN. CODE § 1.502(h)(2) describe additional factors the department must consider in determining whether issuance of the license is appropriate:

ADDITIONAL FACTORS FOR LICENSING AUTHORITY TO CONSIDER AFTER DETERMINING CONVICTION DIRECTLY RELATES TO OCCUPATION.

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- (a) If a licensing authority determines under Section 53.022 that a criminal conviction directly relates to the duties and responsibilities of a licensed occupation, the licensing authority shall consider the following in determining whether to take an action authorized by Section 53.021:
- (1) the extent and nature of the person's past criminal activity;
 - (2) the age of the person when the crime was committed;
 - (3) the amount of time that has elapsed since the person's last criminal activity;
 - (4) the conduct and work activity of the person before and after the criminal activity;
 - (5) evidence of the person's rehabilitation or rehabilitative effort while incarcerated or after release;
 - (6) evidence of the person's compliance with any conditions of community supervision, parole, or mandatory supervision; and
 - (7) other evidence of the person's fitness, including letters of recommendation.
- (b) The applicant has the responsibility, to the extent possible, to obtain and provide to the licensing authority the recommendations described by Subsection (a)(7).
12. In consideration of TEX. OCC. CODE § 53.023(a)(1) and 28 TEX. ADMIN. CODE §§ 1.502(e)(4)(A) and (h)(2)(A), Stockton's conviction for felony Voluntary Manslaughter is his only criminal conviction that is directly related to the licensed occupation.
13. In consideration of TEX. OCC. CODE § 53.023(a)(2) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(B), Stockton's criminal activity occurred in 2000 when he was 21 years old.
14. In consideration of TEX. OCC. CODE § 53.023(a)(3) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(C), it has been over twenty years since Stockton's last criminal activity and conviction occurred.
15. In consideration of TEX. OCC. CODE § 53.023(a)(4)-(5) and 28 TEX. ADMIN. CODE §§ 1.502(h)(2)(D), 1.502(h)(2)(E), and 1.502(h)(2)(G)(i), Stockton provided the department with evidence demonstrating his commitment to rehabilitation after

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incarceration. Stockton provided the department with a copy of his resume which shows his steady employment in warehouse and logistics positions since he was released from probation. He is the founder and owner of MLS Supply, a cleaning supply business. He completed courses in Supply Chain Management at Columbus State Community College in Ohio and obtained a Construction Management Certificate. He is OSHA certified, has a general contractor license, a home inspector license, and completed a Texas Adjuster All Lines Pre-Certification Program. He is an ordained minister, and in 2016 his civil rights were restored in Virginia.

16. In consideration of TEX. OCC. CODE § 53.023(a)(7) and 28 TEX. ADMIN. CODE § 1.502(h)(2)(F), the department received multiple letters of recommendation for Stockton from an adult probation and parole officer, his defense attorney for the voluntary manslaughter conviction, a former supervisor, minister, and his wife. These letters describe Stockton as a man having strong ethical standards who learned from his past mistakes and is committed to his family and community.
17. In consideration of TEX. OCC. CODE § 53.023(a)(4) and (a)(7), and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(ii), Stockton has two minor children for whom he provides support.
18. In consideration of TEX. OCC. CODE § 53.023(a)(3), (a)(4), and (a)(7), and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iii), Stockton has maintained a record of good conduct without any criminal activity for over twenty years.
19. In consideration of TEX. OCC. CODE § 53.023(a)(4) and (a)(6), and 28 TEX. ADMIN. CODE § 1.502(h)(2)(G)(iv), Stockton provided documentation from the Martinsville Virginia Circuit Court Clerk's Office confirming all fines and costs were paid in full.
20. The factors described in 28 TEX. ADMIN. CODE § 1.502(h) and TEX. OCC. CODE §§ 53.022 and 53.023 outweigh the serious nature of Stockton's convictions.
21. Due to Stockton's criminal history, the department needs the opportunity to monitor his insurance activities to ensure he demonstrates the ability and capacity required to perform and discharge the responsibilities of an adjuster.

Conclusions of Law

1. The commissioner has jurisdiction over this matter pursuant to TEX. INS. CODE §§ 82.051-82.055, 84.021-84.044, 4005.101, 4005.102, and 4101.051.

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2. The commissioner has the authority to informally dispose of this matter as set forth in TEX. GOV'T CODE § 2001.056; TEX. INS. CODE §§ 36.104 and 82.055; and 28 TEX. ADMIN. CODE § 1.47.
3. Stockton has knowingly and voluntarily waived all procedural rights to which he may have been entitled regarding the entry of this order, including, but not limited to, issuance and service of notice of intention to institute disciplinary action, notice of hearing, a public hearing, a proposal for decision, rehearing by the commissioner, and judicial review.
4. Stockton committed acts for which the department may deny a license under TEX. INS. CODE § 4005.101(b)(8).
5. The factors described in 28 TEX. ADMIN. CODE § 1.502(h) and TEX. OCC. CODE §§ 53.022 and 53.023 outweigh the serious nature of Stockton's convictions.

Order

It is ordered that an Adjuster All Lines Designated Home State Texas license is granted to Marcus Leroy Stockton. It is further ordered the Adjuster All Lines Designated Home State Texas license is suspended for four years. The suspension will be probated, subject to the terms of this order below.

If, during the probation period imposed by this order, the department issues any additional licenses or authorizations to Stockton, those additional licenses or authorizations will be suspended until the probation period imposed by this order has ended. The suspension shall be probated, and the same terms and conditions stated in this order will apply.

Beginning from the date of this order, and continuing through the probation period, Stockton must provide written notice of this order to any employer, company, or other entity on behalf of which he performs the acts of an adjuster. Stockton must provide the department with a copy of the notification within 30 days of the appointment, employment, or sponsorship by emailing it to the Texas Department of Insurance at EnforcementReports@tdi.texas.gov.

Beginning from the date of this order and continuing through the probation period, Stockton must file a written report, on or before the 15th day of the month on a quarterly

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basis for the months of June, September, December, and March, with the Texas Department of Insurance by emailing it to EnforcementReports@tdi.texas.gov. The reports must include the following information:

- a. Stockton's current mailing address and telephone number;
- b. The name, mailing address, and telephone number of Stockton's employer, and if Stockton is self-employed, then a statement that he is self-employed and the name, mailing address, and telephone number of his business;
- c. The name and address of any insurer or entity which has employed or contracted with Stockton as an adjuster;
- d. The name and address of any insurer or entity which has terminated Stockton's employment or contract as an adjuster; and
- e. A copy of any and all contracts Stockton has entered into with an insurer, adjusting firm, broker, managing general agent, managing general agency, or any person or entity in the business of insurance.

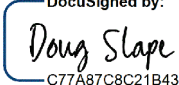
Stockton must notify the department immediately of the following by emailing EnforcementReports@tdi.texas.gov:

- a. Any charges or indictments filed against him for a misdemeanor or felony during the period he is required to file reports, excluding traffic offenses and Class C misdemeanors;
- b. Any state or regulatory actions taken against him, including both formal and informal actions;
- c. Any change in his employment or residence; and
- d. Any complaint made against Stockton concerning his performance as an adjuster, as well as a written explanation detailing the steps taken to resolve it.

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Commissioner of Insurance

DocuSigned by:

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By: _____
Doug Slape
Chief Deputy Commissioner
TEX. GOV'T CODE § 601.002
Commissioner's Order No. 2018-5528

Recommended and reviewed by:



Leah Gillum, Deputy Commissioner
Enforcement Division



Stephanie Daniels, Staff Attorney
Enforcement Division

Affidavit

STATE OF Virginia §
§
COUNTY OF Martinsville §

Before me, the undersigned authority, personally appeared the affiant, who being by me duly sworn, deposed as follows:

"My name is Marcus Leroy Stockton. I am of sound mind, capable of making this statement, and have personal knowledge of these facts which are true and correct.

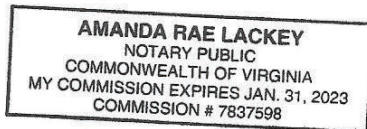
I waive the rights provided by the Texas Insurance Code and other applicable law and acknowledge the jurisdiction of the commissioner.

I have knowingly and voluntarily entered into this consent order and agree with and consent to the issuance and service of the same by the commissioner of insurance of the state of Texas."

Marcus Leroy Stockton
Affiant

SWORN TO AND SUBSCRIBED before me on May 4th, 2021.

(NOTARY SEAL)



Amanda Lackey
Signature of Notary Public
Amanda Lackey
Printed Name of Notary Public