

**BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS**

In the Matter of the Application for a)	
Kansas Resident Insurance Agent's)	Docket No. 4999-L
License of JENNIFER M. HUNT,)	
NPN #18333682)	

FINAL ORDER
(Pursuant to K.S.A. 40-4909 and K.S.A. 77-501 *et seq.*)

This matter came on for prehearing conference on March 2, 2017. Jennifer M. Hunt (“Applicant”) appeared pro se and the Kansas Insurance Department appeared by and through its staff attorney, Steven M. Lehwald. By consent of both parties, the proceeding was converted into a summary proceeding and the parties presented their arguments.

Having reviewed Applicant’s application and having considered the arguments of the parties, the Commissioner finds that Applicant’s application for a Kansas resident insurance agent’s license should be GRANTED.

Findings of Fact

1. Applicant, a resident of Galva, Kansas, submitted an application for a Kansas resident insurance agent license on February 22, 2017.
2. By letter dated March 9, 2017, KID licensing staff notified Applicant that her application was denied pursuant to K.S.A. 40-4909(a)(1), based on Applicant’s failure to information required by the Application, K.S.A. 40-4909(a)(6), based on Applicant’s misdemeanor convictions, and K.S.A. 40-4909(a)(8), based on Applicant’s demonstration of fraudulent, coercive, or dishonest practices.
3. The Presiding Officer is the Assistant Commissioner of Insurance acting on behalf of the Commissioner of Insurance as the agency head as provided in K.S.A. 77-547.

4. Background question 1A of the Application asks, "Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?"
5. The question lists certain traffic offenses that may be excluded.
6. Applicant answered "No."
7. Applicant's Kansas Bureau of Investigation criminal history report shows the following misdemeanor convictions:
 - January 4, 2001, McPherson Municipal Court, Case No. 21595, Domestic Battery (misdemeanor); and
 - May 18, 2006, McPherson Co. District Court, Case No. 05CR183, Giving a Worthless Check (misdemeanor).
8. Applicant timely requested a hearing as provided by the denial letter.
9. During the hearing, Applicant testified that she was unaware that the offenses were in fact misdemeanor convictions.
10. Furthermore, Applicant testified that the worthless check conviction was the result of a post-dated check being cashed before the date on the check.
11. When questioned by KID counsel if she had any other convictions, Applicant said that she did not, but she did state that she previously had "issues" concerning unpaid child support, but that those "issues" had been resolved.
12. Lastly, Applicant testified that she has been working in the insurance industry for the previous two years, and that she has a job available should her license be granted.

13. Counsel for KID closed by stating that Applicant's inability to recognize the legal status of her convictions presents concerns regarding her ability to complete forms for customers.

Applicable Law

14. Before granting an application for a Kansas resident insurance agent's license, the Commissioner has the statutory obligation to "determine that the applicant . . . has not committed any act that is grounds for denial pursuant to this section or suspension or revocation pursuant to K.S.A. 40-4909, and amendments thereto." K.S.A. 40-4905(b).

15. Pursuant to K.S.A. 40-4909(a), the Commissioner may revoke, suspend, or deny the license of a person who has "Provided incorrect, misleading, incomplete or untrue information in the license application," K.S.A. 40-4909(a)(1), "Been convicted of a misdemeanor or felony," K.S.A. 40-4909(a) (6), and/or "Used any fraudulent, coercive, or dishonest practice, or demonstrated any incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere." K.S.A. 40-4909(a) (8).

16. In exercising his discretion, the Commissioner should take guidance from the nonexclusive list of factors set out in K.S.A. 72-1397(b) to be considered by the Kansas State Board of Education. Those factors are:

- The nature and seriousness of the offense or act;
- The conduct of the person subsequent to commission of the offense or act;
- The time elapsed since the commission of the offense or act;
- The age of the person at the time of the offense or act;
- Whether the offense or act was an isolated or recurring incident; and

- Discharge from probation, pardon or expungement.” K.S.A. 72-1397(c)(1)-(6).

The statutory factors are similar to the factors considered by licensing authorities such as for medicine and law. The Kansas Supreme Court held that the same factors applied in considering reinstatement to practice law were equally relevant to the practice of medicine. *Vakas v. Kansas Bd. of Healing Arts*, 248 Kan. 589, 600, 808 P.2d 1355, 1364 (1991).

“The factors include: (1) the present moral fitness of the petitioner, (2) the demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought to the profession, (3) the extent of petitioner’s rehabilitation, (4) the seriousness of the original misconduct, (5) conduct subsequent to discipline, (6) the time which has elapsed since the original discipline, (7) the petitioner’s character, maturity, and experience at the time of the disbarment, and (8) the petitioner’s present competence in legal skills.” *Vakas*, 248 Kan. at 600, quoting *State v. Russo*, 230 Kan. 5, 12, 630 P.2d 711 (1981).

These same factors are relevant to guide the Commissioner in determining whether an applicant should be granted or denied a license after conviction of a crime.

17. Pursuant to K.S.A. 77-526(a), the Assistant Commissioner of Insurance acting on behalf of the Commissioner of Insurance as the agency head, as provided in K.S.A. 77-547, is empowered to render a Final Order.

Conclusions of Law

18. The Commissioner has jurisdiction over Applicant as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
19. The Assistant Commissioner of Insurance is acting on behalf of the Commissioner of Insurance as the agency head and is empowered to render a Final Order.
20. In reaching this conclusion, the Commissioner has considered the *Vakas* factors most favorable to Applicant, specifically; Applicant's conduct subsequent to the original discipline, Applicant's present moral fitness, the time elapsed since the original violation, and the nature and circumstances surrounding the original convictions.

Policy Reasons

Before issuing an insurance agents license, the Commissioner must determine that the applicant is qualified and has not committed any act that would be grounds for denial, suspension, or revocation. K.S.A. 40-4905(b). Further, the Commissioner is charged with licensing, or continuing to license, persons or entities to sell, solicit, or negotiate insurance in the state of Kansas only if their conduct indicates they are both qualified and trustworthy.

While the Commissioner is mindful of Applicant's convictions, the Commissioner believes that Applicant's progress since the conviction, the time elapsed since the conviction, and Applicant's conduct subsequent to the original conviction demonstrate that Applicant is presently fit to hold a Kansas resident insurance agent's license.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE
THAT**

- 1. Applicant Jennifer M. Hunt shall pay investigative and hearing costs in the amount of \$150.00.**

2. Furthermore, any employer of the Applicant shall supervise her by requiring that she work directly with a licensed agent during the first six months of her employment, and, additionally, submit to KID quarterly reports detailing the clients Applicant has insured, the amount of business Applicant currently has, and, any disciplinary action brought against Applicant. These reports should be addressed to Steven M. Lehwald, KID Staff Attorney, and continue to be filed through May 2018.
3. The Kansas Insurance Department shall issue a Kansas resident insurance agents license to Jennifer M. Hunt effective on the date of this order or the date passing examination scores are reported to KID, whichever is later, and
4. Pursuant to K.S.A. 77-415(b)(2)(A), this order is designated by KID as precedent.

IT IS SO ORDERED THIS 10th DAY OF MAY 2017, IN THE CITY OF TOPEKA,
COUNTY OF SHAWNEE, STATE OF KANSAS.



John Wine
Assistant Commissioner
Hearing Officer

NOTICE

Pursuant to K.S.A. 77-601 *et seq.*, Applicant is entitled to judicial review of this Final Order. The petition for judicial review must be filed within thirty (30) days of service of this Final Order (plus three [3] days for service by mail pursuant to K.S.A. 77-531). In the event Applicant files a petition for judicial review pursuant to K.S.A. 77-613(e), the Agency Officer to be served on behalf of the Kansas Insurance Department is:

Diane Minear, General Counsel
Kansas Insurance Department
420 SW 9th Street
Topeka, KS 66612


Certificate of Service

I hereby certify that I served a true and correct copy of the above-and foregoing Final Order upon Applicant by causing a copy of the same to be deposited in the United States mail, first class postage prepaid, on the 10th day of May 2017, addressed to the following:

Jennifer M. Hunt
P.O. Box 206
Galva, KS 67443-0206
Applicant

And hand-delivered to the following:

Steven M. Lehwald
Staff Attorney
Kansas Insurance Department
420 S.W. 9th Street
Topeka, KS 66612-1678



Phoenix Anshutz
Legal Intern