



5. The Commissioner finds that Respondent's unnecessary disclosure of adverse history is evidence of honesty.

6. The Commissioner finds that a history of negligence or irresponsibility in managing personal or business finances is reasonably associated with a likelihood that an applicant will manage insurance business negligently or irresponsibly as an agent.

7. Moreover, the Commissioner finds that an agent who is experiencing personal financial stress is subject to increased temptation in handling the business of others.

#### **Applicable Law**

8. K.S.A. 2003 Supp. 40-4909(a) provides, in relevant part:

“The commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the applicant or license holder has . . . (8) 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. 2003 Supp. 40-4909(a).

#### **Conclusions of Law**

9. The Commissioner has jurisdiction over Respondent as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

10. By entering into this agreed order, Respondent stipulates to the foregoing findings of fact and waives her statutory right to an evidentiary hearing to determine facts, consents to the Commissioner's conclusions of law and order, and waives any statutory right to judicial review.

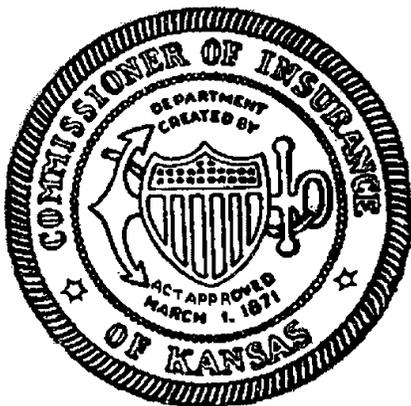
11. Based on Respondent's application, the Commissioner concludes that Respondent has previously demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business and that such history constitutes sufficient grounds for denial of a license pursuant to K.S.A. 2003 Supp. 40-4909(a)(8).

12. However, the Commissioner concludes that Respondent's history is not a bar to licensure.

13. In light of Respondent's cooperation, the Commissioner finds that the interests of insurers and the insurable interests of the public are properly served by issuance of a license on a probationary basis.

Based on the facts and circumstances set forth herein, **the COMMISSIONER HEREBY ORDERS** that Heather D. Potucek shall be licensed as a Kansas resident insurance agent as of the effective date of this order subject to the following conditions: (1) Respondent agrees that any instance of negligence, fraud, misappropriation of funds, or unfair trade practice as defined in K.S.A. 40-2404 reported prior to her first license renewal shall be deemed sufficient cause for suspension, nonrenewal, or revocation of her license without further hearing upon substantiation of the report with substantial competent evidence; (2) Respondent agrees to remain in the employment of an agency and subject to mentoring and supervision during the first calendar year of licensure; and (3) Respondent agrees to report any change of employment during the first calendar year of licensure.

**IT IS SO ORDERED THIS   2nd   DAY OF AUGUST, 2004, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



  /s/   Sandy Praeger \_\_\_\_\_  
Sandy Praeger  
Commissioner of Insurance

BY:

  /s/   Robert M. Tomlinson \_\_\_\_\_  
Robert M. Tomlinson  
Assistant Commissioner of Insurance

SUBMITTED AND APPROVED BY:

/s/ Brenda J. Clary  
Brenda J. Clary  
Staff Attorney

I, Heather D. Potucek hereby stipulate and agree to the Commissioner's findings of fact, conclusions of law, and order. Further, I hereby waive judicial review of the order.

/s/ Heather D. Potucek 8/2/04  
Heather D. Potucek                      Date