

FINAL ORDER
EFFECTIVE 11-5-15

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

In the Matter of the Application for)
Kansas Resident Insurance Agent's License of)
DANIELLE ZAHND,) Docket No. 4779--RA
NPN 17535408.)

FINAL ORDER

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

Pursuant to the authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 40-103 and in accordance with K.S.A. 40-4901 *et seq.*, and K.S.A. 77-501 *et seq.*, the Commissioner hereby revokes the Kansas resident insurance agent license of DANIELLE ZAHND ("Respondent") according to the terms and conditions set out in a consent agreement and order issued on October 16, 2015.

Findings of Fact

1. Respondent is a resident of Overland Park, Kansas.
2. Respondent submitted to the Kansas Insurance Department ("KID") her application for a Kansas resident insurance agent's license.
3. On the application, Respondent denied ever having been convicted of a misdemeanor.
4. The application lists certain traffic misdemeanors, including driving while suspended and driving while under the influence of alcohol or drugs ("DUI"), that the applicant may exclude.
5. Respondent's Kansas criminal history showed four convictions of driving while suspended and one of DUI, all misdemeanors.
6. The criminal history also showed misdemeanor convictions of disorderly conduct, a vehicle registration violation, and driving without liability insurance, which the application requires an applicant to disclose.
7. Although the application allows applicants to omit certain traffic misdemeanors, the application requires an applicant to provide any additional information requested by KID, and because of the number and pattern of Respondent's driving while suspended convictions, KID requested information on traffic misdemeanor convictions.
8. In response to KID's request for her statement about each conviction and charging and sentencing documents, Respondent supplied only partial conviction information that appears to have been cut and pasted from some form of electronic access to municipal court records.

9. That application was denied based on incorrect, misleading, and incomplete information in the license application, conviction of misdemeanors, demonstrating financial irresponsibility and a lack of trustworthiness in Respondent's personal business.

10. Respondent requested a hearing and provided additional information.

11. Respondent supplied charging and sentencing documents for the Kansas misdemeanor traffic convictions and statements about each.

12. Respondent did not disclose any additional criminal history during several weeks of correspondence and at one point wrote, "I own up to all of my convictions and look back and I can't believe I did that. I know it was irresponsible, but I want a chance to prove to the state that it's not who I am anymore."

13. Following negotiation with Respondent and her proposed employer, the parties reached an agreement for a conditional license to be issued pursuant to a consent order.

14. Respondent signed the Consent Agreement on October 13, 2015, and the Order was issued and effective on October 16, 2015.

15. In paragraphs 8 and 11 of the agreement, Respondent waived hearing and acknowledged that legal and sufficient grounds existed for denial of the license and that any misrepresentation or material omission in the application and supporting documents, or a new offense, would constitute grounds for immediate suspension or revocation of the conditional license.

16. Paragraph 5 of the agreement expressed the Commissioner's consideration of the circumstances of the offenses, Respondent's subsequent conduct, and Respondent's proposed employment in determining that Respondent would pose limited risk to Kansas consumers or to the business of insurance if she held a conditional license under supervision.

17. Specifically, the proposed employment and supervision was with an agency that had employed Respondent for some time in an unlicensed position, and the Commissioner considered the established relationship and commitment toward Respondent's success shown by the supervising agent.

18. Between the date of Respondent's signature and issuance of the license, another agent contacted KID about the prospect of hiring Respondent to work in his agency, and shortly thereafter, Respondent contacted KID.

19. As a result, KID staff conducted additional review and identified at least three additional misdemeanor convictions in Missouri that Respondent had not disclosed at the time of her application or during negotiation of the consent agreement.

20. One of the misdemeanor convictions was for driving while suspended, one was driving without a valid license, and the third was minor in possession of alcohol.

21. After a KID inquiry about undisclosed Missouri convictions, Respondent provided a docket print-out, but no charging or sentencing documents, on one of the three

misdemeanor convictions, charging and sentencing information on a traffic infraction for which she was arrested on a warrant for failure to appear, and docket print-outs reflecting an additional Kansas City, Missouri, Municipal Court conviction on April 24, 2009, of failing to carry a driver's license, driving without insurance, and a traffic infraction.

22. Respondent stated that she had forgotten about those convictions.

23. The Commissioner finds this statement is not credible because the documents Respondent provided show that one of the Missouri convictions, driving while suspended, resulted in fine and a ten-day jail sentence for which she required to report two days after sentencing.

24. Two of the convictions, driving without liability insurance and minor in possession of alcohol, were required to be disclosed on the application and were not.

Applicable Law

25. K.S.A. 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:

(1) Provided incorrect, misleading, incomplete or untrue information in the license application. . . .

(6) Been convicted of a misdemeanor or felony. . . .

(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. 2014 Supp. 40-4909(a).

26. In addition, the Commissioner may revoke any license issued under the Insurance Agents Licensing Act if the Commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under such license. K.S.A. 2014 Supp. 40-4909(b).

27. "No person whose license as an agent or broker had been suspended or revoked shall be employed by any insurance company doing business in this state either directly, indirectly, as an independent contractor or otherwise to negotiate or effect contracts of insurance, suretyship or indemnity or perform any act toward the solicitation of or transaction of any business of insurance during the period of such suspension or revocation." K.S.A. 2014 Supp. 40-4909(g).

28. "Any action taken under this section which affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for hearing

conducted in accordance with the provisions of the Kansas administrative procedures [sic] act." K.S.A. 2014 Supp. 40-4909(c).

29. 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

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

31. The Commissioner finds, based on KID records and Respondent's stipulation, that Respondent's application could have been denied pursuant to K.S.A. 40-4909(a)(6) because Applicant had been convicted of a misdemeanor.

32. Moreover, the Commissioner finds that convictions of driving without liability insurance reflect financial irresponsibility in personal business, and a pattern of driving when not properly licensed to do so reflects a lack of trustworthiness as shown by disregard for regulatory law, and thus Respondent's application could have been denied pursuant to K.S.A. 40-4909(a)(8).

33. The Commissioner finds that Respondent's application could have been denied pursuant to K.S.A. 40-4909(a)(1) because Respondent falsely or incorrectly denied ever having been convicted of a misdemeanor and failed to provide required documentation until the second request.

34. The Commissioner finds that Respondent's conditional license may be revoked pursuant to the terms of the consent agreement because Respondent failed to disclose the Missouri convictions and those convictions were material to the subject matter of negotiations for a conditional license.

35. Further, the Commissioner finds that Respondent's license may be revoked, even absent the conditions Respondent agreed to, pursuant to K.S.A. 40-4909(a)(1) because Respondent failed to disclose the Missouri convictions of driving without liability insurance and being a minor in possession of alcohol on her application.

36. The Commissioner notes that, although the application allows applicants to omit certain traffic misdemeanors, including the Missouri conviction of driving while suspended, the application requires the applicant to provide any additional information requested by KID, and KID requested information on traffic misdemeanors.

37. The Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(6) and the terms of the consent agreement because Respondent has been convicted of misdemeanors that were not disclosed and considered when the conditional license was granted.

38. The Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(8) because the additional convictions demonstrate a consistent

pattern of disregard for the law and regulatory restrictions, and Respondent's failure to disclose the additional convictions constitutes dishonest conduct.

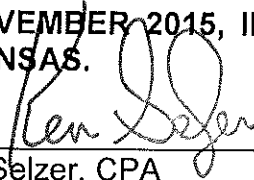
Policy to be Served

Before issuing an insurance agent 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) and 40-4906. Further, the Commissioner may revoke any license issued under the Insurance Agents Licensing Act if the Commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under the license. The following action is appropriate to promote the security and integrity of the insurance business and protect insurance consumers by 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.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas resident insurance agent license of **DANIELLE ZAHND** is hereby **REVOKED**, effective immediately, pursuant to the terms of the Consent Agreement and Order, and **DANIELLE ZAHND** shall **CEASE AND DESIST** from the sale, solicitation, or negotiation of insurance, doing any act toward the sale, solicitation, or negotiation of insurance, and/or receiving compensation deriving from the sale, solicitation, or negotiation of insurance in Kansas or on Kansas risks through business conducted on and after the effective date of this order

IT IS SO ORDERED THIS 5th DAY OF NOVEMBER 2015, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.





Ken Selzer, CPA
Commissioner of Insurance

BY:



John Wine
Assistant Commissioner

NOTICE REGARDING JUDICIAL REVIEW

In the event Respondent 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

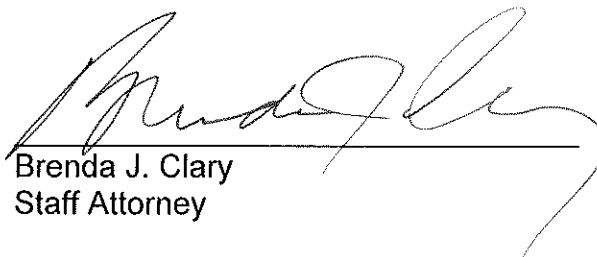
Diane Minear, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

Certificate of Service

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing **Final Order** and accompanying **Notice of Rights** on this 6th day of November 2015 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Danielle Zahnd
10517 Goddard St., Apt. 296
Overland Park, KS 66214-3017

Jared Lynn Boorigie
32559 W. 172nd Terr.
Gardner, KS 66030-9221


Brenda J. Clary
Staff Attorney