

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

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| In the Matter of the Kansas |) | |
| Insurance Agent's License of |) | Docket No. 4954-SO |
| KEITH L. SHAFFER |) | |
| NPN: # 2939003 |) | |

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

This matter involved the proposed revocation of the agent's license of Respondent, **KEITH L. SHAFFER** ("Respondent"). The Kansas Insurance Department ("KID") issued a Summary Order on December 20, 2016, proposing to revoke Respondent's license. Respondent requested a hearing and the matter has been pending. Due to changed circumstances, Respondent no longer wishes to challenge the revocation.

Having reviewed and considered the allegations put forth in the Summary Order on December 20, 2016, the Hearing Officer finds that Respondent's license shall be revoked.

Findings of Fact

The Commissioner finds the following facts:

1. Respondent is licensed as a resident agent to transact the business of insurance in the State of Kansas, and has been so licensed during the period covered by KID's retained records from May 6, 1982 to the present. In fact, Respondent has been licensed since 1977.
2. On November 16, 2016, Respondent was convicted of misapplication of bank funds, wire fraud, misappropriation of insurance funds and three counts of making a false statement on a federal tax return in the United States District Court (KS). Case No. 16-10012-01-JTM
3. Based on this information, KID issued a summary order proposing to revoke Respondent's license on December 20, 2016.
4. Respondent timely requested a hearing.
5. Respondent requested the hearing be delayed until resolution of sentencing in his case in federal court.
6. On September 11, 2017, the Commissioner issued a Temporary Order suspending Respondent's license until resolution of the federal case.
7. On September 18, 2017, Respondent was sentenced to eight months imprisonment followed by four months home confinement.

8. Respondent's attorney, Thomas Haney, gave notice to counsel for KID by email dated September 25, 2017 that Respondent no longer wished to challenge the proposed revocation of his license and was withdrawing his request for hearing..

Applicable Law

1. Pursuant to K.S.A. 40-4909(a), the Commissioner may revoke, suspend, or deny the license of a person who has "been convicted of a misdemeanor or felony," K.S.A. 40-4909(a)(6).
2. 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:
 - a. The nature and seriousness of the offense or act;
 - b. The conduct of the person subsequent to commission of the offense or act;
 - c. The time elapsed since the commission of the offense or act;
 - d. The age of the person at the time of the offense or act;
 - e. Whether the offense or act was an isolated or recurring incident; and
 - f. 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 a licensed agent should be suspended or revoked after conviction of a crime.

3. 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.

Policy Reasons

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. An agent who has been convicted of a felony involving dishonesty or breach of trust is deemed qualified or trustworthy to sell, solicit, or negotiate insurance.

Conclusions of Law

1. The Commissioner has jurisdiction over Respondent as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
2. 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.
3. In reaching this conclusion, the Commissioner has considered the *Vakas* factors in light of the allegations presented by the staff of the Kansas Insurance Department in its Summary Order dated December 20, 2016.
4. The Commissioner notes that Respondent no longer wishes to contest the allegations and has withdrawn his request for hearing.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

1. The Kansas Resident Insurance Agent's License of **KEITH L. SHAFFER** is hereby **REVOKED** the effective date of this Order.
2. **IT IS FURTHER ORDERED** that **KEITH L. SHAFFER** shall **CEASE** and **DESIST** from the sale, solicitation, or negotiation of insurance and/or receiving compensation deriving from the sale, solicitation, or negotiation of insurance conducted after the effective date of this Order.

IT IS SO ORDERED THIS 17th DAY OF October 2017, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Ken Selzer, CPA
Commissioner of Insurance

BY:

A handwritten signature in black ink, appearing to read "CS", is written over a horizontal line.

Clark Shultz
Assistant Commissioner
Hearing Officer

NOTICE

Pursuant to K.S.A. 77-601 *et seq.*, Respondent may be 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 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 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 Respondent by causing a copy of the same to be deposited in the United States mail, first class postage prepaid, on the 17th day of October 2017, addressed to the following:

KEITH L. SHAFFER
PO Box 282
Altamont, Kansas 67330-0282

THOMAS D. HANEY
Stevens & Brand, LLP
917 SW Topeka Blvd
Topeka, KS 66612

And hand-delivered to the following:

STEVEN M. LEHWALD
Kansas Insurance Department
420 SW 9th St.
Topeka, KS 66612



Toni Garrard
Administrative Assistant