

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

In the Matter of the Application for a)	
Kansas Automobile Club Agent's)	Docket No. 76369
Registration of AMANDA L. TALLIE)	
NPN #19004771)	

FINAL ORDER
(Pursuant to K.S.A. 40-4903 and K.S.A. 77-501 et seq.)

A formal hearing in this matter was held on April 3, 2019. AmandaL. Tallie ("Applicant") appeared pro se and the Kansas Insurance Department ("the Department") appeared by and through its staff attorney, Steven M. Lehwald. Applicant did not dispute the facts alleged by the Department or the applicable law but appeared to present mitigating evidence on disposition.

Having reviewed Applicant's application and having considered the arguments of the parties, the Commissioner finds the evidence supports the denial of Applicant's application and affirms the staff decision.

Findings of Fact

1. Applicant, a resident of Pittsburg, Kansas, submitted an application which she signed December 4, 2018, to the Department for registration as a Kansas Automobile Club Agent. The application was completed December 27, 2018, when final documents were received by the Department.
2. By letter dated December 31, 2018, the Department's licensing staff notified Applicant that her application was denied pursuant to K.S.A. 40-4909(a)(6), based on Applicant's misdemeanor convictions and pursuant to K.S.A. 40-4909(a)(1), based on Applicant's failure to disclose the convictions.
3. Applicant filed a timely request for a hearing.

4. 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.

5. Background question 3 of the application asks:

Have you ever been convicted of or pled guilty or nolo contendere (no contest) to any misdemeanor or felony, or do you currently have any pending misdemeanor or felony charges filed against you?

6. Applicant answered "no."

7. [REDACTED]

[REDACTED]:

[REDACTED]

8. Applicant testified that some of the convictions arose out of a [REDACTED]

[REDACTED]

9. Applicant stated that she worked successfully for an automobile dealer for five years. That position required she pay close attention to detail.

10. Applicant explained that she failed to disclose the convictions because she thought the question referred to felony convictions. She acknowledged that she was mistaken.

11. Department staff indicated that agents registered to sell an automobile club insurance must be attentive to detail. Applicant's failure to complete an application for a license accurately raises doubts about her ability to perform the work of an agent. Further, it was noted that the convictions for assault and battery were serious and raised a question about whether Applicant could pose a danger to the public in the future.

Applicable Law

12. Before granting an application for registration as a Kansas Automobile Club Agent, the Commissioner shall determine if the “applicant is of good reputation and . . . is otherwise qualified” K.S.A. 40-2508 (b).

13. The Kansas Supreme Court has not had occasion to discuss the factors the Commissioner should consider when exercising her discretion under K.S.A. 40-2508(b), but it has listed the factors to be considered in determining whether a former attorney should be readmitted to the practice of law. They are:

(1) the present moral fitness of the petitioner; (2) the demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought the profession; (3) the extent of petitioner's rehabilitation; (4) the seriousness of the original misconduct; (5) conduct subsequent to discipline; (6) the time elapsed since the original discipline; (7) the petitioner's character, maturity and experience at the time of the original discipline; and (8) the petitioner's present competence in legal skills. *State v. Russo*, 210 Kan. 5, 6, 630 P.2d 711 (1981).

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 Commissioner considers the direction given on the exercise of discretion in granting legal and medical licenses are appropriate to use for guidance in granting licenses or registrations for insurance agents.

14. 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

15. The Commissioner has jurisdiction over Applicant as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
16. 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.
17. The Commissioner has considered the factors most favorable to Applicant especially that she has had no convictions since 2007, that some of the convictions may have arisen out of [REDACTED], and that she has been successfully employed by an automobile dealer for five years.
18. The Commissioner has considered the factors that weigh most heavily against Applicant, chiefly that the offenses were serious and that Applicant failed to disclose them.

Policy Reasons

Before issuing a Kansas Automobile Club Agent Registration, the Commissioner must determine that the applicant is of good reputation and is qualified. K.S.A. 40-2508 (b).

Pursuant to K.S.A. 40-2508 (b), the Commissioner finds that Applicant's registration should be denied because Applicant has been involved in the criminal justice system and failed to disclose the convictions. The Commissioner has concluded that it is not in the interest of public to issue an agent registration to Applicant.

THE COMMISSIONER OF INSURANCE THEREFORE ORDERS THAT denial of Applicant's application for a Kansas Automobile Club Agent Registration AFFIRMED.

IT IS SO ORDERED THIS 3rd DAY OF MAY 2019, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Vicki Schmidt
Commissioner of Insurance

BY:

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

Barbara W. Rankin
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:

Justin L. McFarland, 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 3rd day of May 2019, addressed to the following:


Amanda L. Tallie

[REDACTED]
Pittsburg, KS [REDACTED]

Applicant

and hand-delivered to the following:

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



Toni Garrard
Senior Administrative Assistant