

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

<b>In the Matter of the Application for a</b>	)	
<b>Kansas Resident Insurance Agent's</b>	)	<b>Docket No. 83363</b>
<b>License of ROBERT COPELAND, JR.,</b>	)	
<b>NPN# 19454620</b>	)	

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

The Presiding Officer called this matter for hearing on August 6, 2020. Robert Copeland, Jr. ("Applicant") appeared in person and the Kansas Insurance Department (the "Department") appeared in person by and through its General Counsel, Justin L. McFarland, and Staff Attorney, Nicole Turner. Al Boulware, General Counsel for SelectQuote, attended via phone. Applicant wanted to provide clarifying information and present mitigating evidence for consideration by the Presiding Officer. Applicant did not dispute the applicable law relied upon by the Department. At the formal hearing, the Applicant, the Department's Director of Producer Licensing, Nancy Strasburg, and two SelectQuote employees, Brenna Michel and McKenzie Kramer, provided testimony.

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

**Findings of Fact**

1. Applicant, a resident of Kansas City, Kansas, submitted an application for a Kansas resident individual insurance agent license on March 20, 2020. The Department received Applicant's fingerprint card and waiver on April 20, 2020.
2. Applicant's application was submitted online on his behalf by an authorized submitter. In the insurance licensing context, an "authorized submitter" is a person or third party authorized by

prospective agents to act on their behalf to submit applications for both resident and non-resident insurance producer licenses.<sup>1</sup> The authorized submitter (“Submitter”) in this situation was a SelectQuote employee, McKenzie Kramer, who was responsible for submitting applications on behalf of prospective SelectQuote producers.

3. As part of the online application, a pop-up notification appears before the applicant or submitter may proceed to background questions. It states, in part:

Please review the background question tab carefully and thoroughly. **An incorrect or inaccurate response to a background question may result in delay in your application and/or ultimately a denial of license.** Please note that the FBI/KBI background check used by the Kansas Insurance Department may reveal misdemeanor and felony convictions that may not appear on other background checks. This includes those which may have been expunged or for which a diversion was received.”

Also note that convictions or pending charges of driving without required vehicle liability insurance are not “traffic offenses” which may be excluded from disclosure. **Any convictions or pending charges of driving without required vehicle liability insurance are required to be disclosed.**

**If you are an authorized submitter, you should review these background questions thoroughly with the applicant. The applicant will be held responsible for the responses to the questions.** [Emphasis added.]

4. The pop-up notification requires an applicant or authorized submitter to affirmatively acknowledge reading the notification, which states:

“Click here to acknowledge that you read, understand and agree to the information on this page. Then click “continue.”

5. An applicant or authorized submitter is not able to proceed to the background questions until clicking on the acknowledgement box.

6. The Department’s Director of Producer Licensing testified that the pop-up notification is intended to alert an authorized submitter that convictions for driving without liability insurance

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<sup>1</sup> See, e.g., <https://pdb.nipr.com/docMgmt/html/BQSDInstructions.html>.

are not “traffic offenses” and must be disclosed. In addition, the pop-up notification explains that the Department expects authorized submitters to review the questions and answers thoroughly with the applicant prior to submission of the application, as the applicant is ultimately held responsible for the responses to questions in the application.

7. Background question 1a under item 38 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?”

8. The Submitter answered “no” to this question in the Applicant’s application.

9. At the end of the application, the Submitter signed the Applicant’s Certification and Attestation portion of the application which states, in part:

The Applicant must read the following very carefully:

I hereby certify that, ***under penalty of perjury***, all of the information submitted in this application and attachments is true and complete. ***I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license*** . . . . [Emphasis added.]

10. The application requires that a written statement explaining the circumstances of any misdemeanor or felony convictions, along with the charging documents and an official document showing the resolution of the charges, be included with the application.

11. SelectQuote required Applicant to complete an Insurance Licensing Information Form (referred to as a “Licensing Questionnaire” or “LQ”) as part of its “onboarding” process. The LQ includes a section regarding convictions that substantially mirrors questions under item 38 in the Kansas resident individual insurance agent license application. Additionally, the LQ requires the applicant sign under penalty of perjury that all of the information is true and complete.

12. Question 1a on the LQ states, “Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, been given probation, or are you currently charged with committing a misdemeanor?”

13. Applicant marked “Yes”.

14. Question 1f on the LQ states:

Are you now, or have you ever been, placed on probation for any of the above questions marked “Yes”?

15. Applicant marked “Yes”.

16. Question 1g on the LQ states, in part:

Have you ever been charged with a crime? This can include charges that were dropped or expunged, fines paid, probation, or are you currently charged with committing a crime? You should also answer “yes” if you have been charged with a felony or a misdemeanor including driving offenses such as, but not limited to reckless driving, driving under the influence, driving with a suspended license, and driving without insurance. Whether or not you spent any time in jail and whether or not you believe the conviction has been removed from your record.

17. Applicant marked “Yes”.

18. On the last page of the LQ, Applicant provided the following details regarding his convictions: he was charged in 2010 in Kansas City, Kansas, with driving under the influence, driving with a suspended license, and driving without required liability insurance for which he paid fines and court fees and was placed on probation.

19. On March 19, 2020, Brenna Michel, an onboarding specialist with SelectQuote, requested that Applicant send in required court documentation for his answers in the LQ to questions 1a, 1f and 1g. On March 20, 2020, Applicant emailed Ms. Michel to explain that he was having difficulty getting the court documentation for his convictions. (At the hearing it was established the difficulty was due to inaccessibility of court offices as a result of the COVID-19 pandemic.) Ms. Michel responded that Applicant should continue to try to get copies of his court documents and complete

a statement regarding his convictions. She further stated, “[t]he good thing is that **your charge is only a DUI and only California requires disclosure of those**, so we should be able to move forward as long as you still make sure to gather those certified documents as soon as you are able. . . . [H]opefully Kansas will quickly approve your license since you will not have any background issues.” [Emphasis added.] Although her email stated his charge was “only a DUI,” it is clear the Applicant disclosed to SelectQuote convictions of a DUI, driving with a suspended license and driving without required liability insurance.

20. As part of the license application process, an applicant must be fingerprinted for purposes of a background check and sign a “Waiver Agreement and FBI Privacy Statement” form (commonly referred to as a fingerprint waiver agreement). The fingerprint waiver agreement requires the person being fingerprinted to indicate whether they have or have not been convicted of a crime. The form must be signed by the person being fingerprinted and states, “[u]nder penalty of perjury, [the signer] understand[s] that any falsification of this statement constitutes a [felony].”

21. The Applicant was originally fingerprinted on March 23, 2020, but those fingerprints (and related fingerprint waiver agreement) were misdirected and did not arrive at the Department. The Applicant testified that on that fingerprint waiver agreement he indicated he had been convicted of a crime and gave the same explanation he provided in the LQ.

22. The Applicant was fingerprinted again on April 16, 2020. Applicant testified that he was told by SelectQuote employee Jared Moore to mark “have not been convicted of a crime” on that fingerprint waiver form. The Applicant testified that Mr. Moore indicated that they were “under the gun” to get his fingerprints redone due to the loss of the first set of prints. The Applicant said that in hindsight he should have questioned Mr. Moore about the instruction to indicate on the fingerprint waiver agreement that he had not been convicted of a crime, but he believed from what

he had been previously told by SelectQuote staff that because of the nature of the convictions disclosure was not required.

23. The Department notified Applicant by letter dated April 28, 2020, that the application was missing documents and not complete.

24. Applicant provided additional documents on April 30, 2020, which showed the following convictions (hereinafter "Convictions"):

February 6, 2015, Kansas City Municipal Court, Case No. 12088452,  
Driving without Liability Insurance (Misdemeanor).

September 14, 2016, Shawnee Municipal Court, Case No. CN1402620,  
Driving without liability insurance (Misdemeanor).

25. By letter dated May 1, 2020, Department licensing staff notified Applicant that his application was denied pursuant to K.S.A. 40-4909(a)(1), based on Applicant's failure to provide complete and accurate information required by the Application, and K.S.A. 40-4909(a)(6) based on the Convictions.

26. Applicant filed a timely request for a hearing.

27. At the evidentiary hearing, Applicant testified that he did not fill out his Application, or review any of the answers supplied by the Submitter before the application was submitted to the Department. Applicant testified that he would have marked "yes" to question 1a if he had completed the application on his own. Applicant explained that he was unaware that there was an issue with his application prior to receiving the denial letter from the Department.

28. The Applicant clarified that at the time of completing the Licensing Questionnaire for SelectQuote, he only remembered the Kansas City municipal conviction for driving without liability insurance, but had forgotten about the 2016 Shawnee municipal court conviction. He was reminded of it by the April 28, 2020, letter from the Department and then produced the related

documents. He indicated he was “off” on the timing of the Kansas City conviction as court documents indicate it occurred in 2015, while he stated in the LQ that it occurred in 2010.<sup>2</sup>

29. Brenna Michel testified that she worked for SelectQuote from July 2019 to May 2020. As an onboarding specialist, Ms. Michel reviewed Licensing Questionnaires submitted by applicants, gathered documents, and assisted applicants with other licensing documentation. At one time, Ms. Michel was trained by SelectQuote on how to complete online applications on behalf of Applicants, but she was not trained specifically on what Kansas law requires with regard to disclosure of certain types of offenses. However, she believed that because Kansas did not require convictions for DUIs to be disclosed, that convictions for driving without liability insurance also did not need to be disclosed. She elaborated that she believed driving without liability insurance was a traffic offense for which disclosure was not required. She testified she not recall ever seeing or reading the pop-up notification that specifically directed that driving without required liability insurance had to be disclosed.

30. Ms. Michel testified that she spoke to Jared Moore and Drew Nick, SelectQuote employees involved with agent licensing, regarding the 2010 convictions disclosed by the Applicant. She stated that the driving under the influence conviction was more of a concern and that is why she addressed it specifically with Applicant in her email communication. Ms. Michel stated that it was her understanding that only California required disclosure of driving under the influence.

31. McKenzie Kramer, a licensing specialist for SelectQuote, testified that she uses information on an applicant’s Licensing Questionnaire to complete licensing applications as an authorized submitter for SelectQuote employees. Ms. Kramer did not believe the convictions disclosed by the Applicant in his LQ needed to be disclosed on his application, or that any court

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<sup>2</sup> The presiding officer notes for purposes of this order that the court documents provided by the Applicant indicate the violations occurred in 2012 but were not adjudicated until 2015.

documents needed to be included with the application. She testified this was due to her understanding that driving without liability insurance did not need to be disclosed on a Kansas resident application. Ms. Kramer testified she was trained on completing online applications by Mr. Moore and Mr. Nick, whom she identified as her managers. Ms. Kramer could not remember if she reviewed the pop-up screen in the application that states that driving without liability insurance is a required disclosure. Additionally, Ms. Kramer testified that she does not review the application with applicants prior submitting the application.

32. The Applicant testified that he believed SelectQuote was in a rush to get him into a training class that was starting at that time, as another class was not scheduled to begin for some time. He stated that because of his prior work as an area director for the Boys and Girls Club, he understood the importance of background checks and had been responsible for terminating employees due to inaccurate or negative background information. He pointed to the disclosures on his Licensing Questionnaire as proof that he was not attempting to hide anything. Also, due to COVID it had been difficult for him to get court documentation of his Convictions when he first sought them in March 2020. He emphasized he was not a dishonest person, and that if he had been able to fill out the application himself, he would have answered the questions correctly. He relied on what SelectQuote instructed him to do, and did not intend anything dishonest or malicious. He was not given an opportunity to review the application completed by the Submitter and if he had, he believes he would have questioned the answers given about his Convictions. He now understands that as the license applicant he is responsible for the information provided on his behalf by SelectQuote.



### **Applicable Law**

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

34. 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.

35. Before approving 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.

36. Pursuant to K.S.A. 40-4909(a)(1), the Commissioner may deny, suspend, revoke or refuse renewal of the license of a person who has "provided incorrect, misleading, incomplete or untrue information in the license application."

37. Pursuant to K.S.A. 40-4909(a)(6), the Commissioner may deny, suspend, revoke or refuse renewal of the license of a person who has "been convicted of a misdemeanor or felony."

38. K.S.A. 40-4909 gives the Commissioner the discretion to deny applications based on the reasons set forth in statute.

### **Discussion**

39. There are three separate and distinct issues in this matter. One involves the Applicant's Convictions, the second is the Applicant's failure to disclose that he had been convicted of a crime on his fingerprint waiver, and the third is the Submitter's failure to complete the background section of the application correctly.

40. The only convictions which are at issue here are the 2015 and 2016 convictions for driving without liability insurance. While the two convictions were entered in 2015 and 2016, court records indicate the underlying violations occurred in 2012 and 2014, respectfully. The most recent conviction resulted from a violation which occurred six years ago, and the Applicant completed probation and paid all required fines. Applicant's driver's license was reinstated in December 2016. Additionally, Applicant has had no convictions since that time. Had both Convictions been disclosed it is unlikely the Applicant's license would have been denied based solely on those Convictions.

41. The second issue, which is of greater concern to the Commissioner, is the Applicant's false statement about prior convictions on his second fingerprint waiver form. While there is no reason to doubt Applicant's testimony that he was advised by SelectQuote personnel to answer in that way, he nevertheless signed a document indicating *under penalty of perjury* that the information he provided was correct. This conduct occurred on April 16, 2020, so is not only very recent but is also considered by the Commissioner to be extremely serious. It is disturbing that the Applicant was advised to do this by SelectQuote staff. While it may be understandable that the Applicant trusted that they were knowledgeable in such matters, it weighs against him that he did not take seriously the act of attesting to the accuracy of information under the penalty of perjury and that providing false information was a felony offense.

42. The third issue, which is of the greatest concern to the Commissioner, is the Submitter's failure to accurately complete the application based on information provided by the Applicant.<sup>3</sup> A SelectQuote employee, acting as an authorized submitter, undertook to act as an agent on

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<sup>3</sup> Applicant's failure to include a disclosure of the 2016 Shawnee municipal conviction in the Licensing Questionnaire is immaterial as testimony provided by SelectQuote employees establish that it would not have been disclosed on the application as they did not believe convictions of driving without liability insurance were required to be disclosed.

Applicant's behalf, and signed under penalty of perjury that the information in the application was true and correct. The Submitter knew this was an untrue statement and again indicates a lack of understanding of the seriousness of signing a document under the penalty of perjury.

43. In addition, it is not credible that the two employees both testified they were not aware of the very specific instructions in the pop-up notification that "[a]ny convictions or pending charges of driving without required vehicle liability insurance are required to be disclosed," and "[i]f you are an authorized submitter, you should review these background questions thoroughly with the applicant. The applicant will be held responsible for the responses to the questions." As the testimony indicated, it is not possible to proceed to the background question section of the application without checking that the pop-up notification has been read.

44. SelectQuote employees knew or should have known that authorized submitters must exercise care when completing applications for licensing candidates because the applicant is held responsible for responses provided by authorized submitters. Because the Department has been faced with incidences of license applicants and authorized submitters failing to disclose prior misdemeanor and felony convictions, it implemented changes to the online application process specifically designed to alert applicants and submitters of the need to exercise care in completing the background questions. This is precisely why it is not possible to proceed to the background section of the online application without checking a box acknowledging that the notification had been read and understood. Despite these precautions, SelectQuote employees undertook to make decisions about what should and should not be disclosed in licensing applications without discussing those issues with the applicant. Indeed, Ms. Kramer testified that it is not standard practice at SelectQuote to review application responses with applicants.

45. It is clear that SelectQuote personnel provided the Applicant with inaccurate information (that his convictions did not have to be disclosed in Kansas), instructed him to falsely complete the fingerprint waiver form, ignored specific instructions given to applicants and authorized submitters that convictions for driving without liability insurance must be disclosed, and ignored specific instructions that authorized submitters should review background questions thoroughly with an applicant.

46. It is unfortunate that SelectQuote undertook the responsibility of submitting the Applicant's licensing application to the Department but was careless in exercising that responsibility. It is even more unfortunate for the Applicant that the Commissioner is placed in the position of holding applicants responsible for incorrect responses provided by authorized submitters to application questions. However, the Commissioner has no other way to hold authorized submitters accountable for such actions. That is why the pop-up notification explicitly states that applicants will be held responsible for the responses to the questions provided by an authorized submitter. In addition, it should be noted that the Applicant's false indication on his April fingerprint waiver form that he had not been convicted of any crimes cannot be overlooked by the Commissioner.

### **Finding and Order**

Pursuant to K.S.A. 40-4909(a), the Commissioner finds, based on the foregoing Findings of Facts, Applicable Law, and Discussion, that the Applicant, via an authorized submitter, provided incorrect, misleading, incomplete or untrue information in the application. In addition, the Applicant provided false information on the April fingerprint waiver form. The Commissioner has concluded that it is not in the interest of the public to issue an agent license to Applicant under these circumstances.

**THE COMMISSIONER OF INSURANCE THEREFORE ORDERS IT THAT:**

- 1. Denial of Applicant's application for a Kansas resident insurance agent's is AFFIRMED.**
- 2. Pursuant to K.S.A. 77-415(b)(2)(A), this order is designated by the Department as precedent.**

**IT IS SO ORDERED THIS 3rd DAY OF SEPTEMBER 2020, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



VICKI SCHMIDT  
COMMISSIONER OF INSURANCE

BY: Barbara W. Rankin  
Barbara W. Rankin  
Assistant Commissioner  
Presiding 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  
1300 SW Arrowhead Rd.  
Topeka, KS 66604

**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 September 2020, addressed to the following:

Robert Copeland, Jr.

[REDACTED]  
Kansas City, KS [REDACTED]

*Applicant*

AND

Al Boulware  
General Counsel  
6800 W. 115th Street, Suite 2511  
Overland Park, KS 66211  
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and emailed to the following:

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