

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

In the Matter of the Revocation of a)	
Kansas Resident Insurance Producer’s)	Docket No. 96303
License of TODD HOISETH)	
NPN # 20037478)	

FINAL ORDER

**Pursuant to K.S.A. K.S.A. 40-2404,
40-4901 et seq., and K.S.A. 77-501 et seq.**

The Presiding Officer called this matter for hearing on May 30, 2024. Todd Hoiseth (“Respondent”) appeared by and through his counsel Jack Peggs and Mindy Wheeler of Peggs Wheeler, LC (“Respondent’s Counsel”). The Kansas Department of Insurance (“Department”) appeared by and through its counsel, Kimberly Davenport Megrail, Senior Attorney.

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-4909(d) and in accordance with the provisions of the Kansas Administrative Procedure Act (“KAPA”),¹ specifically K.S.A. 77-526, the Commissioner proposes to find facts, make conclusions as to applicable law, and iterate Kansas public policy in insurance licensing matters. Having considered the evidence and arguments of the parties, the Commissioner finds the evidence supports the Department’s revocation of the producer license of Respondent, Todd Hoiseth, and therefore affirms the Summary Order of Revocation.²

I. Overview

1. Respondent is a Kansas-licensed life and health insurance producer. This case involves allegations that the Respondent engaged in conduct in violation of the Kansas uniform insurance agents licensing act, K.S.A. 40-4901 *et seq.*, as well as other provisions of the Kansas Insurance Code, when he

¹ See generally, K.S.A. 77-501 *et. seq.*

applied for a life insurance policy for his then-estranged wife, “K.H.,” by forging her signature(s) and misstating other material information on the application. K.H. was unaware of and did not consent to the application for the policy (“Policy”). When she became aware of the Policy, K.H. contacted the insurer, the Savings Bank Mutual Life Insurance Company of Massachusetts (“SBLI”), as well as the Department. Ultimately, K.H. directed SBLI to cancel the Policy.³

2. After an investigation into the matter, SBLI terminated the Respondent’s appointment with SBLI for cause and reported the termination to the Department pursuant to K.S.A. 40-4913.

3. The Department, through Special Agent Randy Myles, conducted its own investigation into the termination for cause, including reviewing SBLI’s investigative file and interviewing the Respondent.

4. The Department concluded that the Respondent had violated several provisions of the Kansas Insurance Code by, *inter alia*, making false or fraudulent statements on an insurance policy application;⁴ using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state;⁵ and forging another person’s name to an application for insurance without their consent, knowledge or permission.⁶ The Department concluded that the insurable interests of the public were not served by the Respondent holding an insurance producer license,⁷ and issued its Summary Order of Revocation (“Summary Order”) on June 23, 2023. The Summary Order also ordered him to cease and desist from conducting the business of insurance in Kansas unless a hearing was requested.

5. Respondent timely requested a hearing on the Summary Order.

³ Relevant information regarding the circumstances surrounding the application for and cancellation of the policy are set forth later in this Final Order

⁴ Violating K.S.A. 40-4909(a)(2)(A) and 40-2404 (11).

⁵ In violation of K.S.A. 40-4909(a)(8).

⁶ In violation of K.S.A. 40-4909(a)(10).

⁷ See K.S.A. 40-4909(b).

6. A Prehearing Conference (“PHC” or “Conference”) was held on September 20, 2023, via conference call. Each party had submitted a Prehearing Questionnaire (“PHQ”) prior to the Conference.

7. The basis for the Respondent’s claim for relief from the Summary Order as articulated in his PHQ and at the Conference can be generally summarized as follows: (a) if he made an error in applying for the Policy, it was due to inexperience rather than incompetence; (b) that although estranged from K.H., he believed he had implied authority from her to apply for the Policy given the prior nature of their marriage relationship; (c) that even if he did not have K.H.’s implied authority, she ratified the procuring of the Policy by not immediately cancelling it; (d) that he had a genuine and appropriate motive in applying for the Policy in order to provide for their two small children in the event of K.H.’s death; (e) that K.H.’s complaint to the Department was driven by her desire to retaliate against the Respondent for an extra-marital affair which ultimately led to the breakup of their marriage; and (f) that ultimately, a consequence short of a license revocation was appropriate given Respondent’s good character and success as an insurance producer.

8. During the PHC, numerous matters were discussed, including questions of law raised by Respondent’s Counsel in his PHQ, the witnesses the parties intended to call and the nature of the witnesses’ testimony, what additional discovery was needed by the parties, whether the parties could agree to any stipulations, whether the matter could be resolved between the Department and Respondent in a manner other than revocation of his license, how the legal principles of implied agency and ratification applied to the circumstances of the case, and other procedural and evidentiary matters.

9. A Prehearing Order and Notice of Status Conference (“PHO”) was issued on September 29, 2023, containing, *inter alia*, the following directives:

- a. Transcripts of five audio recordings identified as exhibits by the Department in its Questionnaire would be prepared by the Presiding Officer’s assistant and provided to the parties to assist in facilitating a more efficient hearing process.
- b. Briefs were to be submitted to the Presiding Officer addressing the following legal issues prior to the date of the status conference:

- i. Applicable law governing the determination of whether an implied agency existed between a spouse (principal) and an estranged spouse (agent) authorizing the agent to apply for a life insurance policy on behalf of the principal without the principal's knowledge, including electronically affixing the principal's signature to the application for such policy.
- ii. Applicable law governing ratification of an agent's unauthorized act by the principal and the consequences of such ratification.
- iii. Legal authority supporting the Respondent's contention that violations of Kansas insurance laws and regulations, specifically those stated in the Order, are waived, pardoned, or rectified by the subsequent ratification by the principal of the Respondent's acts which constituted violations of such insurance laws and regulations at the time the acts occurred.

10. At a status conference held December 15, 2023, deadlines were established for the submission of briefs, the filing of joint stipulations as to facts and a chronology of events, submission of character letters in support of the Respondent, and the filing of Amended Prehearing Questionnaires to update proposed witnesses.

11. The formal hearing was conducted May 30, 2024. The parties had estimated the hearing would take four to six hours. Consequently, it was scheduled to begin at 10:00 a.m. with a one-half hour break for lunch. Due to extensive direct and cross examinations of the witnesses, the hearing did not end until 9:30 p.m., for a total of eleven hours. It involved extensive testimony by six witnesses (four witnesses called by the Department and two called by the Respondent) given during both direct and cross-examination. The Department introduced 30 exhibits consisting of 231 pages, and the Respondent introduced 4 additional exhibits consisting of 30 additional pages. The transcript of the hearing exceeds 530 pages in length.

12. Due to the length of the hearing and the extensive amount of testimony and evidence, the Presiding Officer's time to issue this Final Order was extended for good cause for sixty (60) days on June 28, 2024, to August 30, 2024, pursuant to K.S.A. 77-526(g).

II. The Hearing and Evidence Presented.

Due to the extensive record in this case, the Presiding Officer has, for purposes of this Final Order, summarized the evidence which she deems relevant to the matter as established by the testimony of witnesses and exhibits introduced at the formal hearing. The evidence is presented in a chronological order and by topic, rather than by the order in which witnesses were called and testified. The Presiding Officer further notes that Respondent's Counsel conducted skilled, vigorous and lengthy cross examinations of the Department's witnesses, and in particular K.H. Testimony and admissions obtained through such cross-examinations have been included where the Presiding Officer deemed relevant.

A. The Respondent's Personal and Professional Background.

1. Respondent and K.H. attended college together in Oklahoma and were married in 2009.⁸ Shortly after, he became a youth pastor at a church in Eldorado, Kansas, serving there for twelve years.⁹ They had two daughters together.¹⁰ Respondent testified that he and K.H. operated their marriage under biblical principles that as the husband, the Respondent was the primary if not sole decision-maker for the family, including that he was in charge of the family finances. He further testified that during the marriage K.H. agreed with this approach.¹¹

2. At some point the Respondent became involved in an extramarital affair. He testified that when it was discovered, "I found myself separated and jobless in a day."¹² The separation occurred June 22, 2021, soon after which K.H. filed for divorce. The divorce became final in January 2023.¹³

3. During the pendency of the divorce proceedings, the parties operated under a Temporary Order which made provisions for various matters, including child custody, child and spousal support, possession of certain items of personal property, and responsibility for payment of debts and obligations.

⁸ TR 35, 333.

⁹ *Id.* at 333, 338.

¹⁰ Department's Ex. 16 at 104.

¹¹ *Id.* at 348, 351-52; Department's Ex. 24 at 151.

¹² *Id.* at 333.

¹³ *Id.* at 339; Department's Ex. 29 at 168.

Notably, the order also prohibited the parties from “cancelling or modifying (including changing, adding, or deleting beneficiaries) any . . . insurance coverages,” including life insurance.¹⁴

4. Seeking another career, the Respondent took the Kansas health and life licensing examinations in August of 2021, and was licensed by the Department as a resident Kansas insurance producer on September 1, 2021.¹⁵ He began working the next day for an agency located in California that was affiliated with a national insurance marketing organization (“IMO”). He was appointed with SBLI in October or early November 2021.¹⁶

5. A considerable amount of testimony, which at times was not consistent, was presented regarding the training or lack thereof provided to the Respondent on completing applications for life insurance. The testimony included:

- a. Respondent testified he learned during his insurance exam preparation course, that as an insurance producer in Kansas, he was responsible to know Kansas laws and regulations pertaining to insurance.¹⁷ A portion of that training included ethical responsibilities in the sale of insurance. He testified he understood that accurate information was to be provided on applications and that he could not fabricate information or sign applications for people.¹⁸

¹⁴ Department’s Ex. 29 at 176. The Respondent’s Counsel asked K.H. repeatedly during various aspects of his cross-examination why she suggested to the Department at various times that she would cancel the policy at the heart of this matter, when the terms of the Temporary Order seemed to preclude cancellation of any life insurance policies. This issue seems to be a red herring for several reasons, but primarily because the Presiding Officer believes it only applied to insurance coverages in existence at the time the Temporary Order was issued. It is not reasonable to interpret its provisions to preclude either party from obtaining, during the pendency of the divorce, additional types of medical, accident, personal property, homeowner, or auto insurance for their own personal benefit and protection and then cancel such policies when the procuring party deemed such coverage no longer needed. Further, the Presiding Officer does not deem it important to the resolution of the matter pertaining to Respondent’s license. It therefore bears no further discussion herein, other than as it may pertain to the issue of implied consent between a married husband and wife.

¹⁵ TR 322-23, 334.

¹⁶ Department’s Ex. 24 at 134; TR 366.

¹⁷ TR 391.

¹⁸ *Id.* at 393.

- b. As to general training he received when he began his career in insurance, the Respondent indicated that his agency provided in-house training (in the form of virtual on-line programs) which agents were expected to do on their own, and that insurance carriers sent video training; however, he testified that he did not and does not watch those.¹⁹ Generally, he described his training from his agency as very minimal to non-existent.²⁰
- c. His actual training on the application process was done “kind of hand [me] down, agent-to-agent.”²¹ Conversely, he testified that he was aware of one or two training videos provided by insurance carriers that covered the application process. However, he apparently did not take advantage of such training videos stating, “I just had to figure out how to do [an application] on my own,”²² and in response to a question by the Presiding Officer, he stated, I don’t know that I’ve actually sat through like a training on filling out an application.”²³
- d. A representative from SBLI (hereinafter, the “SBLI Witness”) testified that agents appointed by SBLI are required to sign a contract which includes requirements to comply with best practices, ethical behavior, *etc.*²⁴ In addition, it offers a series of video training courses for new agents, and also ongoing training including refreshers or reminders as to best practices.²⁵ Although these and other training materials are available, SBLI doesn’t require an agent to document they actually review these materials. SBLI expects training to be managed by the agency an appointed agent

¹⁹ *Id.* at 336.

²⁰ *Id.* at 334-36.

²¹ *Id.* at 410.

²² *Id.* at 410.

²³ *Id.* at 430.

²⁴ *Id.* at 158.

²⁵ *Id.* at 164.

works for.²⁶ All that is required for an application submitted by an appointed agent to be approved is that the agent hold an appropriate state insurance license.²⁷

- e. In his interview with Agent Myles, Respondent said he received no training from SBLI, but was able to explain how to complete an application online for an SBLI policy.²⁸
- f. During his testimony, the Respondent stated, with regard to answering the “other insurance” question, “my *training* was just to skip past that (emphasis added) . . . so that’s what I did.”²⁹

B. Application for K.H. Policy.

1. Respondent testified that in December 2021, he began thinking he should obtain additional life insurance on K.H. and himself to take care of their minor daughters in the event of one of the parent’s deaths. Given that he was in the insurance business, he had the knowledge and ability to apply for the policies and did so, “for me and for [K.H.], for the, you know, for the good of the girls here.”³⁰
2. According to K.H., during this time there were no discussions about taking care of the children in the event one of the Hoiseths died.³¹
3. At that time, the Respondent and K.H. each had small life insurance policies purchased for them by Respondent’s parents when they got married to cover funeral and related expenses. K.H. also had an additional \$250,000.00 life insurance policy, which Respondent was aware of.³²
4. On or about December 30, 2021,³³ Respondent applied for an “instant issue” policy with SBLI for a \$750,000 life insurance policy on K.H.’s life, with himself named as beneficiary (the “Policy”).

²⁶ *Id.* at 230.

²⁷ *Id.* at 229, 231-232.

²⁸ Department’s Ex. 24 at 134-35; Department’s Ex. 9 at 074.

²⁹ *Id.* at 367-369.

³⁰ TR 343-344; Department’s Ex. 24 at 139, 142.

³¹ *Id.* at 36.

³² *Id.* at 36-37; Department’s Ex. 3 at 049.

³³ The two electronic signatures at page 5 of that policy Application reflect a date of December 30, 2022, which is incorrect; the correct date was a year earlier (as Respondent’s counsel acknowledged, TR 233). *See, e.g.*, Department’s Ex. 2 at 2 (SBLI letter to Department showing issue date of policy of December 30, 2021).

The Policy also contained a \$250,000 accidental death rider. At the same time, he also applied for a \$250,000 policy on himself, with his brother as the beneficiary.

5. The SBLI Witness testified that the policies applied for were designed to be submitted on a completely digital (or online) basis. The application was to be completed by the agent in conjunction with the customer, either by telephone, in person, or through a virtual (video) meeting. After the application is completed and submitted electronically to SBLI by the agent, the application program forwards the application to the applicant's email listed in the application, and then provides a mechanism for the applicant to electronically sign, attest to the accuracy of the information in the application, and sign other policy documents, including a form consenting to the electronic submission of the application and electronic receipt of all policy documents.³⁴ Because of how the process for obtaining the electronic signature of the applicant is set up, the SBLI Witness testified it is "critical" that the email of the applicant be entered correctly. The SBLI Witness also testified that it was also important for the phone number of the applicant to be correct, as it is used as a secondary method of communication with the applicant.³⁵

6. The application is then underwritten on a "real time" basis, meaning that if the applicant's information meets the programmed underwriting metrics, it can be immediately approved and processed through SBLI's system overnight.³⁶ The SBLI Witness testified answers to various questions of particular importance on an application, the answers to which were utilized by the programmed underwriting metrics to determine the applicant's eligibility for the amount of coverage requested.³⁷ These included:

- a. Whether the applicant had existing life insurance or annuity contracts with SBLI or any other company and whether the policy being applied for was replacing any current coverage. This impacted the amount of insurance which SBLI would allow the insured.

³⁴ See generally TR 159-163.

³⁵ TR 161, 172-173.

³⁶ *Id.* at 159-162.

³⁷ See generally TR 173-176.

The underwriting guidelines would potentially reduce or increase the amount of allowable coverage based on the answer to that question.

- b. The applicant's income, which factored into the determination of how much insurance the applicant qualified for.³⁸
- c. Various medical and lifestyle questions, such as the applicant's height and weight, whether the applicant's smokes or has been treated for alcohol or drug abuse, history of prior surgeries, and the applicant's or applicant's family's history of cancer, diabetes, or strokes, *etc.*

7. The SBLI Witness emphasized that misstatements on an application can greatly affect coverage, rates, and indeed, whether the policy will even be issued.³⁹

8. She also testified that the policy was designed for the insured, owner, and payor of premiums on the policy to be the same person. This is confirmed by a statement in the section above where the applicant signed the application confirming, "I am the applicant, and the person who will be paying the premiums and whose life will be insured under this insurance."⁴⁰ However, she clarified that it was possible for a third party to actually pay the premiums; there was no validation check for that in SBLI's system.⁴¹

9. When the Respondent applied for the Policy, he used K.H.'s actual name and address, but used the Respondent's email address, his telephone number, and provided his bank account information for payment of the monthly premiums.⁴² Respondent knew that by using his email on the application it would generate an email to him which contained a link that he could click on to input K.H.'s signature.⁴³

³⁸ For example, a lower income would reduce the amount of coverage the applicant was eligible for.

³⁹ TR 189.

⁴⁰ Department's Ex. 2, Section F at 040-041.

⁴¹ TR 177.

⁴² There were other discrepancies in the information provided on the application which will be detailed later in this Final Order.

⁴³ TR 413-14, 433 (19-22).

10. The SBLI Witness testified that once an application for a policy is approved, and assuming the applicant has consented to electronic communications and delivery of policy documents, notification of issuance of the policy is sent electronically to the applicant *at the email address given for the applicant in the application.*⁴⁴ Based on information in the application, the SBLI system automatically produced a letter dated December 29, 2021, containing K.H.'s name and her home address, notifying K.H. that her insurance application had been approved and advising K.H. to review the accompanying policy documents.⁴⁵ However, based on SBLI's processes, *this letter would actually have been emailed to the Respondent as he had provided his email in place of K.H.'s email on the application.* Further, K.H. testified she had not received this letter from SBLI.⁴⁶ The Respondent concurred during his testimony that the Policy was emailed to him and that K.H. would not have known about the Policy until receiving a letter from SBLI on January 5, 2022.⁴⁷

11. The application contains a section entitled "Agreements" which provides:

By signing below, I [the applicant] agree that: I have read this application with all its statements and answers, or they have been read to me, and that: I represent that the statements and answers are true, complete, and correct to the best of my knowledge and belief I am the owner applicant, and the person who will be paying the premium and whose life will be insured under this insurance, and [t]he insurance being applied for is suitable for my insurance needs.⁴⁸ (Hereinafter, this section will be referred to as the "Policy Verification" section.)

12. The application then contains a "Fraud Warning" which states:

Any person who knowingly presents a false statement in an application for insurance may be guilty of a criminal offense and subject to penalties under state law.⁴⁹

⁴⁴ TR 161, 232-33.

⁴⁵ Department's Ex. 3 at 004 *et seq.*

⁴⁶ TR 64.

⁴⁷ *Id.* at 444.

⁴⁸ Department's Ex.2, Section F at 040-041.

⁴⁹ *Id.* Section G at 041.

13. Immediately below the Fraud Warning is a section for signatures⁵⁰ for both applicant and the producer. There then is another section⁵¹ requiring the Producer (in this case the Respondent) to again certify whether the applicant has or is replacing any other life insurance or annuities. It then states, “I certify that the responses in this application are, to the best of my knowledge, information and belief, complete and accurate.” (Hereinafter referred to as the “Producer Certification” section.) The Producer Certification section is separately signed by the producer.⁵²

14. The Respondent explained that because it was “late”⁵³ when he wrote the policies, and he was trying to qualify for a trip by writing a certain level of premium by year-end, he thought it would be “simpler” if he provided his personal email rather than K.H.’s to sign the application himself.⁵⁴ In addition to electronically affixing K.H.’s signature to the application, he also signed her name to a Charitable Giving Benefit Rider,⁵⁵ an Authorization to Collect and Disclose Information,⁵⁶ and an authorization to electronically submit the application and have policy documents e-delivered to her.⁵⁷

15. As will be further detailed later in this Order, the Respondent did not consult with K.H. about obtaining the SBLI policy on her, nor did he receive her consent to apply for it on her behalf. In part, his justification for this was that he felt he and K.H. were in “a good place” at Christmastime in 2021 and he had hopes they might be able to reconcile and get back together. In response to Respondent’s Counsel’s questions during cross-examination regarding these alleged feelings, K.H. stated:

No, I have never said to [the Respondent] that I will get back together with him.... He is very wrong about that. And in fact, the conversation I had with him . . . while the girls were at a birthday party just days before he made this policy was, “I need this divorce to be protected from you.”⁵⁸

⁵⁰ *Id.* Section H.

⁵¹ *Id.* Section I.

⁵² *Id.*

⁵³ Department’s Ex. 24 at 139-140 where Respondent indicated it was both late in the year (December 29 or 30), as well as late in the day, *i.e.* 11:00 p.m.

⁵⁴ TR 364-366.

⁵⁵ Department’s Ex. 2 at 034.

⁵⁶ *Id.* at 035-036.

⁵⁷ *Id.* at 046.

⁵⁸ TR 86.

16. Respondent testified that he had intended to advise K.H. about the Policy the next time he had a chance to have a conversation with her; however, he forgot about it for a time. He testified he should have made it a priority to talk to her about it. He admitted that he was, in any event, a bad communicator.⁵⁹

17. When pressed, Respondent indicated that he understands he must obtain some form of permission from a client to complete an application. Conversely, he stated, “to the point of [K.H.] and I being on the same page, I really had no reason to believe I didn’t have her consent.”⁶⁰

18. K.H. testified that she did not know of any reason why the Respondent would think that she would want him to apply for this Policy in her name,⁶¹ nor did she ever consent to or give the Respondent the authority to submit the application on her behalf.⁶²

C. K.H.’s discovery of the Policy

1. K.H. testified she became aware of the issuance of the Policy when SBLI contacted her by mail on or about January 5, 2022, notifying her of a change to the bank routing number for payments on the Policy.⁶³ The SBLI witness testified that their system requires that many post-policy issuance communications be sent by traditional postal mail versus email. Thus, the communication regarding the bank routing number was sent by mail to K.H.’s home address.⁶⁴

2. Because she did not recognize SBLI’s name, K.H. contacted SBLI on January 12, 2022, asking what the Policy was, how it came to be issued, what she could do if she hadn’t applied for the Policy, and the consequences for someone obtaining the policy without her consent.⁶⁵

⁵⁹ *Id.* at 365-66.

⁶⁰ Department’s Ex. 24 at 146-47; *see also* at 150 (top of page).

⁶¹ TR 51.

⁶² *Id.* at 40, 58.

⁶³ TR 37-38; Department’s Ex. 23 at 129.

⁶⁴ TR 166-167.

⁶⁵ *Id.* at 38-39; Department’s Ex. 12

3. The SBLI customer service representative (“CSR”) advised K.H. that Respondent was the agent that had submitted the application electronically and that K.H.’s electronic signature was on it.⁶⁶

4. K.H. asked, “so what if I did not open this account?” The CSR replied:

If you really didn’t [apply for the Policy] then what you would want to do is notify us in writing to, you, know, let us know that you had nothing to do with this and then they would cancel it.

K.H. then asked, “then what about like, the person who opened this without telling me?” The CSR responded:

Yeah, it’s not looking too good for them. The other thing that I would suggest is, if you feel like, you know, there’s some kind of deception going on here that you may want to report it to the insurance commissioner in your state.⁶⁷

5. SBLI’s CSR entered a contemporaneous note of the January 12th call from K.H. into the company’s internal service record for the Policy, indicating that, “[K.H.] called in and stated she didn’t issue this policy. She said she will notify us in writing that she didn’t authorize it. [S]he is also contacting the insurance commissioner for her state.”⁶⁸

6. K.H. then created an online account to download the Policy. When she did this, she saw that notification was sent by email to Respondent as the Producer, which she realized would make him aware that she now knew of the issuance of the policy and of his involvement in it.⁶⁹

7. On January 12, 2022, K.H. contacted Respondent by phone, to ask about the Policy.⁷⁰ She recorded the call because she wanted some “proof that [she] didn’t make [the policy].”⁷¹

8. In the call, K.H. expressed surprise that the Policy had been obtained because the Respondent had not told her he was doing it. The Respondent replied:

⁶⁶ TR 39; Department’s Ex. 12 at 088-089.

⁶⁷ TR 39, 72-79; Department’s Ex. 12.

⁶⁸ Department’s Ex. 23 at 122.

⁶⁹ TR 39.

⁷⁰ Department’s Ex. 13; TR 39-40.

⁷¹ TR 40.

Well, I honestly forgot about it. It was something I needed to do before the end of the year for a promotion. And I just got an email about it here just a little bit ago. I was going to chat with you about it tonight, but I totally forgot I even did it.⁷²

9. Respondent asked several questions inquiring how K.H. found out about the Policy. K.H. advised she had received a letter from SBLI about the bank routing number. Respondent followed up, stating, "I'm just curious why they sent you anything about it anyway. I mean because I'm paying for it." He later asked whether the notice she received came in the mail or by email, and what exactly the notice said.⁷³

10. The Respondent told K.H. that the policy was put in place because he had to sell enough policies to meet a premium threshold to qualify for a trip.⁷⁴ He further elaborated at various times during the call:

I was right at the cusp of this thing like two days before the end. . . I had to meet it before the end of the year. And we had to go with a company that does instant decision, because I didn't have time to go through underwriting to get approved. And so that was why I had to do it. . . .

. . . .

And like I said, it was just kind of one of those last minute things that I ended up doing and I never really thought about it again

. . . .

So anyway, I didn't mean to hide it from you or anything. I was just like I said it just kind of was an out of sight out of mind thing.⁷⁵

11. After nearly seven (7) minutes into the call, the Respondent stated another reason for the Policy was that "if something ever happened, you know how much it would cost to take care of the kids?" No other references indicating the Policy was procured for this reason occurred during the remainder of the call, which lasted another six and a half minutes.⁷⁶

⁷² Department's Ex. 13 at 091.

⁷³ *Id.* at 092-093.

⁷⁴ He described the trip as five or seven days at a resort in Costa Rica, with all expenses paid, worth around \$12,000. *Id.* at 095, 099.

⁷⁵ *Id.* at 094-095.

⁷⁶ Department's Ex. 13 at 095.

12. K.H. did not state in the call with Respondent on January 12, 2022, that she did not want the policy.⁷⁷ However, she testified at the hearing that she would not have said that to Respondent during that conversation because of her concerns about how he may react to that, and further stated, “I did not have a relationship with [the Respondent] to tell him. I did not want to tell him.” Testimony later in the hearing indicated that in April 2022 K.H. advised Respondent that she was “pretty uncomfortable” with the existence of the policy and was “concerned” or “uneasy” about it.⁷⁸

13. K.H. testified about other incorrect information provided in the Policy application by Respondent. These included stating that K.H. did not have other insurance, that K.H.’s annual income was ██████, misstating K.H.’s height and weight, and failing to disclose that K.H.’s mother had been diagnosed with ██████ sometime in the past. K.H. testified that the Respondent knew she had other life insurance policies, that her income for that year (2021) would have been approximately ██████ but on an annualized basis (*i.e.* in 2022) would have been around ██████, and that her actual height was ██████ but was listed as ██████. In addition, the bank account used for payment of premiums belonged to the Respondent and was not a joint account held by them.⁷⁹

14. K.H. further testified that she did not immediately send a request to SBLI to cancel the Policy in part because she did not know what the process for investigating Respondent’s actions in the matter would entail and didn’t want to cancel the Policy if it would erase evidence that the Policy had been applied for or had existed.⁸⁰ In addition, she opted to contact the Insurance Commissioner as she was advised by the SBLI CSR that was another option for her if she felt some deception had occurred.⁸¹ At another time, K.H. advised Department’s Counsel that she did not cancel the policy immediately because she did not want to “ruin[]” evidence in a pending investigation and because she wanted to download a

⁷⁷ TR 82-83.

⁷⁸ *Id.* at 60-61; Department’s Ex. 24 at 153.

⁷⁹ *See generally* TR 49-58; Department’s Ex. 2 at 37-42; and Department’s Ex. 3.

⁸⁰ TR 59-60.

⁸¹ *Id.*; Department’s Ex. 12 at 089.

copy of the policy before requesting SBLI cancel it.⁸² She was also concerned that if she cancelled the policy, there was nothing to stop the Respondent from applying for another policy on her.⁸³

15. After SBLI contacted her in July 2022 that it had completed its investigation and had determined K.H. had not applied for the Policy, she advised she did not want to keep the Policy and requested it be cancelled. The premium payments were returned to her although she advised SBLI she had not paid the premiums.⁸⁴

D. K.H.'s Complaint About Respondent Obtaining the Policy.

1. On January 20, 2022, K.H. emailed the Department asking whether there were any “measurable consequences” for Respondent’s procuring a policy on her without her consent or knowledge. She further stated in the email, “[i]f there are no consequences to this and it’s just a ‘slap on the hand’ offense, I will not make a big deal about it, but just cancel it.”⁸⁵ She testified she was nervous about filing a formal complaint against Respondent because of concern that he would have an angry reaction to it and it would send her on a “roller coaster of emotions.” She further explained, “I was just so exhausted from all of that. I was afraid of it just starting more. Um, so I was nervous about him finding out [that she filed a complaint].”⁸⁶ On cross-examination she explained that by “measurable consequences,” she meant more than Respondent receiving a letter to not do something like that again, but rather she wanted something significant enough to make the Respondent “stop using [her] information and continu[ing] his abuse of [her] through the legal system.”⁸⁷

2. The Department responded the next day, advising K.H. that if her “soon to be ex [husband]” had an insurable interest in her, then he could be the owner of the policy and she the insured. In that event,

⁸² Department’s Ex. 25 at 158.

⁸³ TR 95; Department’s Ex. 16 at 104.

⁸⁴ TR 59.

⁸⁵ Department’s Ex. 14; TR 48, 89.

⁸⁶ TR 49.

⁸⁷ *Id.* at 90. It is not clear what K.H. meant by his abuse of her through the “legal system.” It is possible it was a reference to what was occurring in their divorce proceedings.

she may not be able to cancel the policy. She should reach out to the company which issued the policy to verify.⁸⁸

3. K.H. responded back to the Department that she was both the owner and insured, but that the Respondent, an insurance agent, had taken out the Policy without her knowledge and signed her name on the application, saying, “I find it odd that someone can do that. Sign your name and create a policy without your knowledge or consent. If I cancel this one, will he just be able to do this over and over again?”⁸⁹

4. After these email exchanges, K.H. advised the Department she wanted to consult her attorney before deciding whether to have the Department initiate an inquiry into the matter. The Department’s Director of the Consumer Assistance Division (“CAD Director”), testified regarding two complaints subsequently filed with the Department by K.H. On March 7, she advised that she wanted the Department to contact SBLI to do a review of the application for the Policy. However, K.H. specifically requested that neither the Department nor the company contact the Respondent. The Department initiated the requested inquiry, in response to which SBLI provided the Department with its policy documents. Without being able to contact the agent and based on the use of the electronic application and signature process, it could not be determined that K.H. had not given her consent to the application.⁹⁰ The Department notified K.H. on April 13, 2022, that the documentation received from SBLI verified K.H. was the owner of the policy and, as such, had the right to choose to keep the policy or cancel it. It further advised there was no regulatory action for the Department to take and so it was closing K.H.’s complaint file.⁹¹

5. On April 18, 2022, K.H. responded to the CAD Director as follows:

⁸⁸ Department’s Ex. 15.

⁸⁹ Department’s Ex. 16 at 104.

⁹⁰ TR 114-115.

⁹¹ Department’s Ex. 3 at 054; TR 114-16, 127.

I have always known that this policy was owned by me. I am slightly disappointed that the insurance commissioner's office sees no problem with an insurance agent . . . using the social security number and other personal information of someone other than them and e-sign someone else's name for personal benefit. I am not okay with an agent signing my name to a legal document. . . . It is a big deal to me that a man who has told me I have no value to him, that he could just shoot me in the face, that he could take our girls and live a life without me, is capable of creating these policies over and over and over. . . . Please use the recording and my statement to pursue disciplinary action against him. Please use the following statement as a formal complaint against agent Todd Hoiseth.⁹²

6. Attached to the email was a statement addressed "To Whom It May Concern," and signed by "A Very Concerned Friend" (hereinafter referred to as the "Very Concerned Friend" statement), alleging, *inter alia*, that an agent (the Respondent) had procured an insurance policy on his estranged wife without her knowledge and signed her name pretending she was the one opening the policy. That letter also indicated a belief that the wife's life was being threatened and that she was in danger. It asked that the agent be informed that this practice is illegal and will not be tolerated.⁹³

7. K.H. testified that she was the author of the Very Concerned Friend statement.⁹⁴ On cross-examination, K.H. indicated she pursued seeking disciplinary action against Respondent because she wanted him to stop using her personal information.⁹⁵ She was also asked if she really felt her life was threatened, to which she responded, "[a]bsolutely, yes."⁹⁶ When asked why she would go to the Department of insurance if she felt her life was threatened and not to a law enforcement agency, she indicated she did file a police report at one time but did not know what happened regarding that report.⁹⁷

8. On further cross-examination K.H. admitted she did not ever expressly advise the Department that she did not want the policy; however, she stated to Respondent's Counsel that, "I did not

⁹² Department's Ex. 3 at 051; TR 128-130.

⁹³ Department's Ex. 1; Department's Ex. 3 at 052.

⁹⁴ TR 100.

⁹⁵ *Id.* at 99.

⁹⁶ *Id.* at 100.

⁹⁷ *Id.* (11-22). Neither party presented any further evidence regarding a police report being filed by K.H.

ever want this policy. And that needs to be extremely clear to you. Whether [it's documented] in your papers or not.”⁹⁸

9. The CAD Director testified she did not know at the time that K.H. was the author of the Very Concerned Friend statement but believed the intent behind the statement was for the Department to be able to pursue an investigation without the Respondent knowing who it came from. This statement was sufficient for the Department to reopen its file on the matter.⁹⁹ The recording provided was that of the January 12, 2022, conversation between K.H. and the Respondent about the Policy.¹⁰⁰ On April 20, 2022, the Respondent was sent a copy of the Very Concerned Friend statement with a letter advising him there was an investigation and asking him to respond to the complaint.¹⁰¹ The Department emailed K.H. requesting she provide detail on the information in the Application that was incorrect.¹⁰²

10. The Respondent responded to the Department's inquiry via a letter dated May 12, 2022, from his attorney, Mr. Peggs. The letter provided, in relevant part:

As the inevitability of divorce loomed, Mr. Hoiseth wished to provide for his children in the event either he or his wife died while the children remained dependent. Mr. Hoiseth feels strongly that providing for the children is a goal shared with his wife and that he surely would expect to have his wife's approval and support for policies of insurance as a means of meeting important family needs in the event either he or his wife predeceased the children.

The policy covering the wife is owned by her, subject to her control even to the point of changing beneficiaries. There was certainly no deception or attempt to hide it from her as, indeed, she was provided with a copy at the time of issuance.¹⁰³

11. After receiving the letter from Mr. Peggs, the Consumer Assistance Division referred the matter to the Department's Legal Division and closed K.H.'s complaint file.¹⁰⁴

⁹⁸ *Id.* at 93-94.

⁹⁹ *Id.* at 130-132.

¹⁰⁰ *Id.* at 133-34.

¹⁰¹ TR 138; Defense Ex. D.

¹⁰² Department Ex. 3 at 50.

¹⁰³ Department's Ex. 5. As shown by other evidence in this matter, this last sentence is incorrect, although Respondent's Counsel was likely unaware of that at the time.

¹⁰⁴ TR 151.

E. Investigation by SBLI and the Department

1. On April 15 and April 18, 2022, SBLI received calls from the Respondent asking to cancel the Policy. However, he was advised that K.H, as the owner, was the only person who could cancel it.¹⁰⁵
2. SBLI received an email from the CAD Director on July 6, 2022, indicating the Department’s investigation into the K.H. Policy matter was still ongoing, and attaching correspondence from Mr. Peggs (5-12-22 letter), a letter from Department’s Counsel to Mr. Peggs asking for additional information (5-31-22) and a response from Mr. Peggs to Department’s Counsel (6-13-22) indicating the “Application was by Mr. Hoiseth based on familiarity and personal knowledge” of K.H., and that “[K.H.] appeared satisfied with the plan.”¹⁰⁶ On July 20, 2022, a conference call was held between SBLI (including the SBLI Witness and legal counsel), and Department staff (including legal counsel, the CAD Director, and producer licensing staff). After this call, SBLI provided the Department with recordings of K.H.’s January 12, 2022, call to SBLI and recordings of two calls made by Respondent’s to SBLI in April 2022 requesting to cancel the policy. The Department, in turn, emailed SBLI the recording of the January 12, 2022, conversation between K.H. and the Respondent, and a document containing an email chain of communications (previously described herein) between the Department and K.H.¹⁰⁷
3. The SBLI Witness testified that she contacted K.H. on July 21, 2022, during which K.H. advised about several misstatements in the Policy application, that she had not consented to the application, and had not signed it.¹⁰⁸ The SBLI Witness received confirmation from K.H. that she did not want the policy - and, in fact “was *adamant* about the fact that she did not want [it.]”¹⁰⁹ The SBLI Witness directed SBLI staff to process a cancellation and refund premiums to K.H. which had been paid for the Policy.¹¹⁰ As the owner of the policy, SBLI believed K.H. was the person entitled to receive the premium

¹⁰⁵ Department’s Ex. 18, 19 and 23.

¹⁰⁶ Department’s Ex. 23, 120-121.

¹⁰⁷ Department’s Ex. 23 at 121.

¹⁰⁸ TR 189, 194.

¹⁰⁹ *Id.* at 190; Department’s Ex. 23 at 128; Department Ex. 25 at 158.

¹¹⁰ TR 59, 193.

refund, regardless of whether the premiums were actually paid by a third party (in this case, the Respondent).¹¹¹

4. The Policy was cancelled as “NTO” meaning “not taken out” and treats the Policy as if it has never been issued.¹¹² SBLI then made a determination to terminate the Respondent’s appointment with the company, based on fraudulent statements in the application, that the applicant’s signature was not authorized, and that his actions had violated his agent agreement with SBLI.¹¹³ The Respondent received notification that his appointment with SBLI was terminated, that the Policy had been cancelled and that the commission he had been paid was owed back to SBLI.¹¹⁴ The Department received the notification of the Respondent’s termination for cause from SBLI on August 3, 2022.¹¹⁵

5. The Department assigned Agent Myles to investigate the SBLI’s termination for cause of Respondent’s appointment.¹¹⁶ SBLI provided to Agent Myles a copy of the policy at issue as well as a chronology of events, and its entire electronic file.¹¹⁷ Agent Myles sent a letter to the Respondent asking him to respond to the matter, which Mr. Peggs did on Respondent’s behalf in a letter dated October 31, 2022.¹¹⁸ In this letter, Mr. Peggs expressed that the termination of Respondent’s license was the result of an anonymous consumer complaint (supposedly the Very Concerned Friend statement) submitted to the Department. Agent Myles immediately responded to Mr. Peggs that he was investigating only the termination for cause matter involving SBLI’s termination of Respondent’s appointment, and was not investigating anything pertaining to the consumer complaint. He further explained, “[p]ending the outcome of this investigation [into the termination for cause] there may be actions taken against your

¹¹¹ *Id.* at 225.

¹¹² *Id.* at 192-193.

¹¹³ *Id.* at 194-95, Department’s Ex. 8 at 072.

¹¹⁴ Department’s Ex. at 072.

¹¹⁵ Department’s Ex. 20.

¹¹⁶ Department’s Exs. 9, and 21-24.

¹¹⁷ Department’s Ex. 23.

¹¹⁸ Department’s Ex 21.

client's Producer License by this department."¹¹⁹ During his testimony Agent Myles explained that his role in investigating a termination for cause is to determine whether a licensed insurance producer violated any insurance statutes or laws in order for the Department to make a decision whether to take action against a Producer's insurance license.¹²⁰

6. On November 18, 2022, Agent Myles conducted a telephone interview of Respondent, with his counsel present. The interview was recorded, with a transcript subsequently made and is a part of the record in this case.¹²¹ During the hearing, Agent Myles reiterated to Respondent's Counsel that he did not investigate the consumer complaint filed by K.H. and that he was not familiar with the consumer complaint file, including the Very Concerned Friend statement. His investigation was based on the materials sent to him by SBLI resulting in its termination of Respondent's appointment, and his interview with the Respondent.¹²²

7. Agent Myles' testimony on direct examination as well as the transcript of his interview with the Respondent established that Respondent had indicated his reason for obtaining the policy on K.H. was to ensure his children were taken care of in the event that something happened to K.H.¹²³ Respondent did not mention the trip as an incentive for applying for the policy.¹²⁴

8. In addition to facts reported elsewhere in this Final Order, the following admissions or statements were, *inter alia*, made by the Respondent during his interview with Agent Myles:

- a. That he wrote the Policy on K.H. for the good of their daughters.¹²⁵

¹¹⁹ Department's Ex. 22.

¹²⁰ TR 253.

¹²¹ Department's Ex. 24.

¹²² TR 263-267, 280.

¹²³ *Id.* at 247, 251; Department's Ex. 24 at 139.

¹²⁴ TR 248-249; Department's Ex. 24 at 139-140.

¹²⁵ TR at 139-140.

- b. That he provided the background information on the application for the Policy based on his personal knowledge gained during the couple's twelve-year marriage.¹²⁶
- c. That he didn't consult with K.H. or consider discussing the Policy with K.H. prior to applying for it because he knew that their goals and desires for their daughters were the same.¹²⁷
- d. That since they were still married at the time (although separated) and he was still working toward reconciliation of their marriage, and he felt he was on good terms with K.H. having just spent Christmas together with their daughters, he did not have any reason to believe he did not have her consent to apply for the Policy.¹²⁸
- e. Based on the reasons expressed above he believed he did not need to notify her about the application for the Policy and proceeded without her knowledge.¹²⁹
- f. Further, based on the biblical roles he and K.H. assumed in their marriage, with the Respondent being the primary decision maker, and that he was working toward restoring their marriage, he believed he could apply for the Policy without consulting K.H. just as he may have done prior to their separation.¹³⁰
- g. When K.H. learned about the Policy and called him, he explained his reasoning that the Policy was in the best interest of their daughters and "at the end of the conversation, she seemed very agreeable to it."¹³¹

¹²⁶ *Id.* at 140-141.

¹²⁷ *Id.* at 141, 144.

¹²⁸ *Id.* at 146-147.

¹²⁹ *Id.* at 151.

¹³⁰ Department's Ex. 24 at 151.

¹³¹ *Id.* at 149.

- h. He stated he advised her during the call that she was the owner of the Policy, that she could change the beneficiary if she wanted, but that he was paying the premiums and would continue to do so as long as she wanted the Policy, and she was “okay with everything.”¹³²
- i. K.H. did not ever say to him, “I did not want you to open this Policy,” but had told him in April 2022 that she was uneasy about having the Policy.¹³³
- j. The Respondent made two calls to SBLI in April 2022 to try to cancel the Policy after receiving a communication¹³⁴ from the Department expressing a concern that the Policy suggested K.H.’s life was threatened. He did not want anyone to think he had any ill will toward K.H., nor an incentive to have the Policy, so he sought to cancel it.¹³⁵

9. Following the interview, Agent Myles created an “Investigative Report” summarizing his findings.¹³⁶ At its conclusion, Agent Myles found there was sufficient evidence to conclude the Respondent violated K.S.A. 40-4909(8) in using fraudulent, coercive or dishonest practices, or demonstrating any incompetence, untrustworthiness or financial irresponsibility in the conduct of [insurance] business in the state. He recommended the suspension of Respondent’s license.¹³⁷ However, he testified that his role was to determine whether there was a violation of any insurance laws or statutes, but not to make a recommendation to the Department on what action should be taken in the event of a violation. The final decision about the appropriate action is made by the Commissioner, through her staff

¹³² Department’s Ex. 24 at 150, 152. However, the transcript of the January 12, 2022, call (Department’s Ex. 13) indicates the Respondent told K.H. only that he was paying the premiums.

¹³³ Department’s Ex. 24 at 153.

¹³⁴ Presumably this was the complaint filed by K.H. with the Very Concerned Friend statement attached.

¹³⁵ Department’s Ex. 24 at 153.

¹³⁶ Department’s Ex. 9.

¹³⁷ *Id.* at 076.

at the Department. He testified that revocation of the Respondent's license was consistent with his recommendation of suspension.¹³⁸

10. Based on the Investigative Report prepared by Agent Myles, the Department issued the Summary Order.

F. Testimony of Respondent.

The following summarizes relevant testimony by the Respondent which has not been recited elsewhere in this Order.

1. After K.H. and Respondent separated, they primarily communicated only about their daughters. At some point, K.H. sent Respondent a list of items she wanted in order to consider reconciling their marriage. From June to December that year, he was working on those points of reconciliation as he wanted to repair the marriage if possible.¹³⁹

2. In December 2021, he and K.H. were on speaking terms and he was invited by K.H. to spend Christmas morning with her and their daughters. He testified he felt like they had a great morning, although he knew K.H. "probably had to bite her tongue a lot of that morning, uh, for me just to be there."¹⁴⁰

3. Due to all that K.H. did for their children (e.g., homeschooling and caring for them full time) the Respondent became concerned about being able to afford to hire people to do these things for their children in the event something were to happen to K.H. He believed a life insurance policy on K.H. would provide the financial means to take care of his daughters.

¹³⁸ TR 257-258.

¹³⁹ *Id.* at 340-341.

¹⁴⁰ *Id.* at 343.

4. He did not consult K.H. about his plan to obtain the Policy. He didn't remember a time thinking that maybe K.H. wouldn't be OK with this plan. Rather, he reasoned he was going to pay the premiums for the Policy, and it would ensure their daughters were taken care of.¹⁴¹

5. Regarding the trip as a motivation for obtaining the Policy, the Respondent's testimony was inconsistent at best. When reviewing the transcript of the January 12, 2022, telephone call with K.H., he testified he did not recall he had discussed the trip so much in explaining his reason for applying for the Policy.¹⁴² However, he reiterated his desire and belief that at that time he thought their marriage could be reconciled. They had both enjoyed travelling prior to their separation. Since the trip was in September 2022, it provided a nine-month window for their marriage to "course correct" so that they could take the trip together.¹⁴³ He testified that at one point in the conversation he did "[get] to the point of the real reason for having the policy, which was to make sure that the kids were protected, no matter what happened."¹⁴⁴

6. When asked by his counsel why he had used his own email address on the application instead of K.H.'s, he replied, in part, "it was late when I wrote the policies. *And obviously there was the consideration of the trip* [emphasis added] . . ." Also, "it's going to be simpler if I just have these things signed."¹⁴⁵ On cross-examination, Respondent testified that the date of application on the policy – December 29 or 30 – was because the trip was a factor and the deadline to qualify was the end of the year.¹⁴⁶

7. Respondent testified that during their January 12, 2022, call K.H. was questioning at first, but by the end, he felt she understood why he did it and she was okay with it.¹⁴⁷

¹⁴¹ *Id.* at 349-350.

¹⁴² *Id.* at 357.

¹⁴³ *Id.* at 357.

¹⁴⁴ *Id.* at 357-358.

¹⁴⁵ *Id.* at 365.

¹⁴⁶ *Id.* at 411, 413. At the hearing, the Respondent indicated for the first time that these policies did not qualify toward the trip, and he just did not know that at the time. TR 365, 403.

¹⁴⁷ TR 356 (10-16).

8. Although K.H. made various comments during the conversation about being concerned that the Respondent was planning to kill her to get the proceeds or that otherwise the Policy made her feel her life was threatened, he characterized those statements as “light” or “offhand[ed]” comments, which was K.H.’s way of joking.¹⁴⁸

9. Regarding other inaccuracies in information on the application, the Respondent testified to the following:

- a. Prior applications completed by Respondent for other insurers requested household income, rather than the proposed insured’s individual income. He misunderstood the SBLI application as seeking the insured’s individual income, so instead used his guess that their combined household income would be around ██████████¹⁴⁹ He admitted on cross-examination that he did not fully understand the significance of accurately stating K.H.’s income but agreed that he got that wrong.¹⁵⁰
- b. With regard to the question about other life insurance, Respondent acknowledged K..H. had a \$250,000 policy from another carrier. However, he testified on cross-examination that he “skipped through that” because he did not think it was vital information an insurer needed to have, but realizes this was a mistake that he has learned from.¹⁵¹
- c. Information on her height and weight was based on what he thought at the time.¹⁵²
- d. The Respondent had forgotten about K.H.’s mother’s ██████████¹⁵³

¹⁴⁸ *Id.* at 358, 361.

¹⁴⁹ *Id.* at 366-367.

¹⁵⁰ *Id.* at 405-408.

¹⁵¹ *Id.* at 408-09.

¹⁵² *Id.* at 369-70.

¹⁵³ *Id.* at 370.

10. The Respondent testified he had no ulterior motive for using any of the incorrect information on the application. It was only after listening to the testimony of the SBLI Witness at the hearing that he realized how factors such as height and weight and family medical history could impact the underwriting for a life insurance policy. He also realized that if K.H.'s salary was listed as [REDACTED] and her other life insurance policy disclosed, the SBLI Policy limit would have likely been capped at \$500,000.¹⁵⁴

11. Respondent indicated he attempted to cancel the Policy in April 2022 based on the following: He testified April was a hard month for them as they were in mediation to reach an agreement on parenting and had many heated arguments during that time. He described a session they had on April 14, 2022, as "a bitter, ugly mediation." He said a conversation they had the following day was "ugly enough to the point where I felt like anything that could be used as leverage [against him] would be used as leverage to get the girls." He asked her specifically, "[a]re you okay with – with this policy?" When she said she was uneasy with it, he said, "let's cancel it. Let's be done with it. Because I don't want you to think that I have some vendetta or that I have something against you that I want to do." He testified he then he told her, "you know what, I'm gonna – I'm just gonna cancel this thing. . . . And so I called [SBLI]."¹⁵⁵

12. However, when he called SBLI on April 15, 2022, to cancel the Policy he was advised that only K.H. as the owner could cancel it.¹⁵⁶ He tried calling again on April 18, 2022, thinking he might get a different person who would allow him to cancel the Policy.¹⁵⁷ However, that CSR only advised that she would have a manager contact him. A customer service supervisor returned the call to Respondent the next

¹⁵⁴ *Id.* at 371-372.

¹⁵⁵ *Id.* at 373-375.

¹⁵⁶ Department's Ex. 18. During that call, the Respondent misrepresented that he was the owner of the Policy.

¹⁵⁷ Department's Ex. 19; TR 375-376.

day (April 19, 2022) also advising the Respondent could not cancel the policy, during which he indicated he might quit paying the premiums for the Policy.¹⁵⁸

13. On April 20, 2022, he received notification from the Department of the complaint containing the Very Concerned Friend statement. He was very upset by this because he felt it suggested that he was threatening K.H.'s life. However, he testified, "I never threatened her life. I never made those statements."¹⁵⁹

14. Respondent indicated during his interview with Agent Myles that his reason for attempting to cancel the policy in April was that he had been given to understand from the Department that K.H. felt as though her life was threatened (presumably from the Very Concerned Friend statement), and he didn't want that perception to be out there.¹⁶⁰ However, the Respondent's own testimony indicated the two times he called SBLI to cancel the Policy would have been prior to receiving the Department's inquiry.

15. Respondent testified that at the time he applied for the Policy, he would characterize himself as "an inexperienced rookie" insurance producer.¹⁶¹ K.H.'s Policy was only the 66th policy he had written¹⁶² and only the sixth or seventh for SBLI.¹⁶³ Previously he had mainly written policies for another carrier. He feels he is now a more experienced insurance producer, having written approximately 450 policies.¹⁶⁴

16. On cross examination by Department's Counsel, the Respondent admitted he does not go over all information in an insurance application with a client, as (the application) "is quite encompassing." He elaborated that he asks the client for answers to all the questions in the application, but he doesn't go over with them the Policy Verification section or the Fraud Warning. However, the application is sent to

¹⁵⁸ Department's Ex. 23 at 122.

¹⁵⁹ TR 377.

¹⁶⁰ Department's Ex. 24 at 152-53 (at 44:08).

¹⁶¹ TR 379.

¹⁶² *Id.*

¹⁶³ *Id.* at 397.

¹⁶⁴ *Id.* at 378.

the client to review so he or she can read those and then, by signing, certify all information is accurate. In every application there are one or two signature points, and he feels it is in the client's discretion to read the various disclosures associated with those signature points. He seldom has clients who actually read through everything. Instead, they typically just want to know where to sign and then click the button to submit the application.¹⁶⁵

17. During the timeframe in which he applied for K.H.'s policy and during at least the first six months to a year of selling insurance, the Respondent testified as to his following practices in completing applications for clients:

- a. He typically on most applications for other clients skipped over the "other life insurance" questions in applications.¹⁶⁶ He reasons for doing that primarily was that when other insurance is disclosed, the application requires information on the carrier, the policy number, the effective date, and the amount of coverage. "And most clients don't know that information. . . it flusters them often to have to go to a safe that they don't know the combination for to try to find [the information]." He then stated, "for better or for worse, *my training* was to just skip past that," but then seemed to contradict himself, saying it was "just easier [to answer no to the question] so that's what I did."¹⁶⁷
- b. He didn't understand why a person's income was important so long as they could pay the premium on a policy. However, now he understands how it is used by insurance carrier to determine coverage, so he verifies whether the application is seeking household or individual income.¹⁶⁸

¹⁶⁵ *Id.* at 394-395.

¹⁶⁶ *Id.* at 397-398.

¹⁶⁷ *Id.* at 369.

¹⁶⁸ *Id.* at 405-408.

- c. If he ran across a question in an application that he wasn't sure how to handle, he would typically just skip over it because his impression was the information generally wasn't considered vital or necessary.¹⁶⁹
- d. He would generally skip over reading the Fraud Warning to clients.¹⁷⁰
- e. He would certify as the producer *in every application* that everything in the application was correct, regardless of the Fraud Warning.¹⁷¹
- f. He typically didn't go over with clients the statement in the SBLI Verification section about the insured and payor being the same person. He explained that if they were separate people, he would have to get signatures from someone who may not be available, and it slowed down and complicated the simplified aspect of the instant issue product.¹⁷²

18. The Presiding Officer noted that the contestability provision in the SBLI policy states, “[w]hile insurance is contestable, we may either rescind the insurance or deny a claim or adjust the Death Benefit on the basis of . . . [a] material misstatement in the Application for . . . this Policy.”¹⁷³ The Respondent testified he understood that it is very serious if a death claim is not paid due to misstatements or inaccurate information in the application.¹⁷⁴

19. The Presiding Officer further noted the Respondent had admitted previously in the hearing to making material misstatements in many policy applications. She read the Fraud Warning in Section G of the Application (quoted above in this Order) and asked, “[i]s your testimony that you just blew that off

¹⁶⁹ *Id.* at 409.

¹⁷⁰ *Id.* at 446.

¹⁷¹ *Id.* at 404.

¹⁷² *Id.* at 410-411.

¹⁷³ Department's Ex. 2 at 018.

¹⁷⁴ TR 417.

and didn't read it?" To which the Respondent replied, "[y]es Ma'am."¹⁷⁵ He later agreed it is not okay for these types of disclosures to be overlooked.¹⁷⁶

20. The Respondent admitted that he had skipped over the "other insurance coverage" question on many of the policies he's written. He estimated that of the approximately 450 policies he's written, the number of those policies that are still in force and within the contestability period that could contain inaccurate information about other insurance coverage could be about 100 policies that he would have to look at.¹⁷⁷ The Respondent concurred with the Presiding Officer that falsifying information on insurance applications because getting the information was inconvenient was wrong and violated insurance laws. The Respondent agreed that it would be a responsible thing for him to go back and review those policies and if any information had been omitted or was incorrect, he should attempt to correct the errors with the client and the insurance carrier.¹⁷⁸

21. The Respondent initially suggested that he can only put down information on the application that a client provides to him. However, he later acknowledged that it is the agent's responsibility to explain to the client that if their answers are not complete, accurate and truthful, the insurer can later deny coverage under the policy, and that it was his duty to advise applicants that they need to read through the information and representations in an application to ensure their accuracy.¹⁷⁹

22. Turning specifically to the Policy procured for K.H., the Presiding Officer pointed out the statement in K.H.'s application, which reads, "I am the owner/applicant and the person who will be paying the premiums and will be the insured under this insurance," and asked the Respondent why he thought it was OK to cause K.H.'s signature to be signed to that statement. The Respondent replied, "I never read that [statement in the application],"¹⁸⁰ implying that he was unaware of its existence.

¹⁷⁵ *Id.* at 446.

¹⁷⁶ *Id.* at 447.

¹⁷⁷ *Id.* at 424-427.

¹⁷⁸ *Id.* at 425.

¹⁷⁹ *Id.* at 454, 450.

¹⁸⁰ *Id.* at 448.

23. Similarly, the Presiding Officer noted that by forging K.H.'s name to the application, he falsely represented that "the statements and answers [in the application] are true, complete and correct to the best of [the applicant's] knowledge and belief." Another false statement he made by signing K.H.'s name was "the policy issued on this application has been delivered to and accepted by the owner [here, K.H.]."¹⁸¹

24. The Respondent testified the mistakes he made on K.H.'s Policy were in the context of his family situation at that time and his inexperience, and he would not handle a policy application like that ever again.¹⁸² For example, on other applications, he would not use his email or phone number in place of the applicant's.¹⁸³ Respondent said he now understands that information such as existing life insurance policies and an applicant's income are vital information in determining how much coverage an applicant is eligible for,¹⁸⁴ and ensures such information is accurately reported.¹⁸⁵ He further indicated he now understands attention to detail in the insurance business is extremely important and misinformation on an application could cause a person to be ineligible to get proceeds under a policy.¹⁸⁶ He believes his changes in handling applications came through experience after his first year or so of being a licensed producer.

25. Respondent's undated resume, included with his attorney's May 12, 2022, letter to the Department¹⁸⁷ reflects, *inter alia*, that Respondent is a "[s]killed life insurance Producer adept at working in fast-paced, competitive environments. Practiced at maintaining current knowledge of company products and experienced in offering first-rate sales knowledge to drive growth." Ironically, it also provides the Respondent "[e]ngaged customers and provided high level of service *by carefully explaining details about documents,*" and "[r]eceived underwriting approvals after *accurately completing applications for*

¹⁸¹ *Id.* at 448-450.

¹⁸² *Id.* at 379-380.

¹⁸³ *Id.* at 398.

¹⁸⁴ *Id.* at 405.

¹⁸⁵ *Id.* at 424-25.

¹⁸⁶ *Id.* at 404-405.

¹⁸⁷ Department's Ex. 5 at 062 *et seq.*

insurance coverage [emphasis added].”¹⁸⁸ The Respondent admitted at the hearing that these claims would not be accurate until he had at least a year of experience selling insurance.¹⁸⁹

26. Respondent admitted that now that he has more experience, he would handle the situation regarding K.H.’s Policy, “a hundred percent different[ly]. I wouldn’t do this [presumably signing his name to another person’s policy] ever again. I never did it since. And will never do it.”¹⁹⁰ He admitted that “this was a mistake.”¹⁹¹ and a “really stupid move.”¹⁹²

G. Agency Activities Engaged in by the Respondent.

1. Toward the end of the hearing, the Respondent indicated that he has about seventy (70) agents currently writing business under him within the IMO network he is affiliated with.¹⁹³

2. He is actively involved in training these agents.¹⁹⁴ One of the character references testified the Respondent is a “national trainer[],” and a “leader and teacher [and] mentor to new agents.”¹⁹⁵

3. When asked whether he has his own insurance agency, the Respondent replied he did, named Hoiseth Financial Agency, LLC. It was formed and filed with the Kansas Secretary of State’s office in 2022. It operates under the same IMO organization as the agency he initially worked for.¹⁹⁶

4. However, the Respondent indicated he did not believe the agency had an insurance producer business entity license for his agency from the Department, so was instructed to work with the Department’s Director of Licensing to correct that lack of licensure.¹⁹⁷

¹⁸⁸ *Id.* at 062.

¹⁸⁹ TR 419.

¹⁹⁰ *Id.* at 379.

¹⁹¹ *Id.* at 381.

¹⁹² *Id.* at 401.

¹⁹³ *Id.* at 457.

¹⁹⁴ *Id.* at 417 (18-19), 451 (19-23).

¹⁹⁵ *Id.* at 481 (20), 482 (12).

¹⁹⁶ *Id.* at 461-468.

¹⁹⁷ *Id.* at 462-465.

H. Respondent's Character Witness and References.

1. The Respondent submitted fourteen (14) letters of support/character references from business associates, agency managers, co-workers, colleagues and clients. Most attested to the Respondent's good character, his prior work as a youth pastor, his devotion to his daughters, his work ethic, mentorship of co-workers, and his desire to help his insurance customers. The four letters from clients indicated only that the Respondent had assisted them in obtaining appropriate insurance for their needs. Several of the other letters were remarkable in the similarity of the comments regarding revocation of the Respondent's license, characterizing the Respondent's licensing issue as relating to a personal matter *unrelated to his professional conduct or ability to fulfill his duties as an insurance agent*. One stated, "this incident was the result of a single complaint lodged by someone who, we strongly believe, had a personal vendetta against him." Others characterized the licensing issue as arising from an isolated incident, while some indicated that the Respondent has sold hundreds of policies without any notable issues or complaints. Several characterized the Department's revocation as "harsh" and requested a more lenient sanction, such as a temporary suspension.

2. One character witness, Mr. [REDACTED] [REDACTED] appeared in person, travelling from New Mexico to do so. His testimony at the hearing included the following:

- a. He is the president of his own insurance agency and is a partner in the national IMO with which the Respondent is associated. He has known the Respondent only since April 2022 when they met at a leadership meeting. He learned about Respondent's licensing issue from the Respondent. He testified his knowledge of the matter is that it involves only one policy and "something to do with a signature involving his ex-wife."¹⁹⁸

¹⁹⁸ *Id.* at 476-477.

- b. He testified generally that he has never received a complaint involving the Respondent,¹⁹⁹ that Respondent is recognized as a “national top producer,”²⁰⁰ that Respondent was nominated in March 2023 by the IMO to be an agency owner,²⁰¹ and that Respondent is one of his “national trainers,” is trusted by him, is a “stellar agent,” and a “fabulous leader and teacher [and] mentor to new agents,”²⁰² He further opined that the Respondent was “ethically sound.”²⁰³
- c. Mr. ██████ testified he has dealt with a “plethora” of complaints against other agents in his company.²⁰⁴ When he deals with something like this, he typically advises the agent to not make the mistake again and “move on.”²⁰⁵ He has coached the Respondent a couple of times on mistakes that were brought to ██████’s attention and the Respondent has always been receptive to the coaching and accepts responsibility for the issue.²⁰⁶
- d. Mr. ██████ further indicated that Respondent is a “valuable asset” to his company,²⁰⁷ with seventy-nine (79) agents working for him,²⁰⁸ and that revocation of his license would be a detriment to ██████ agency.²⁰⁹
- e. The witness opined that he does not consider the discipline in this case to be proportional to the wrong alleged; he has seen worse situations where no action was taken.²¹⁰

¹⁹⁹ *Id.* at 477, 478.

²⁰⁰ *Id.* at 478.

²⁰¹ *Id.*

²⁰² *Id.* at 482.

²⁰³ *Id.* at 485.

²⁰⁴ *Id.* at 479.

²⁰⁵ *Id.* at 484.

²⁰⁶ *Id.* at 485.

²⁰⁷ *Id.* at 482 (19-25).

²⁰⁸ *Id.* at 481.

²⁰⁹ *Id.* at 483.

²¹⁰ *Id.* at 479-80.

3. Upon cross examination by Department's Counsel, Mr. ██████ admitted the following:
 - a. All he knew about the circumstances underlying the revocation of Respondent's license was that he heard the latter signed a policy for his ex-wife.²¹¹
 - b. It is important for insurance clients to know about policies that are being applied for on their behalf.²¹²
 - c. That he was not aware of any details regarding misstatements made by the Respondent on the application for K.H.'s policy, including that Respondent may have skipped over parts of the application.²¹³
 - d. That making misstatements on information in an insurance application or applying for a policy without the insured's consent and signing it on behalf of the insured would not be consistent with his company's core values.²¹⁴
4. Upon further questioning by the Presiding Officer, the witness testified as follows:
 - a. It would surprise him to learn that the Respondent admitted during the hearing to intentionally not disclosing the existence of other insurance or used inaccurate income on perhaps as many as 100 applications.²¹⁵
 - b. That it was "obviously not okay" for the Respondent to sign his ex-wife's name to an insurance application and also make other misstatements in the application that could invalidate the coverage.²¹⁶

²¹¹ *Id.* at 488-489.

²¹² *Id.* at 489-490.

²¹³ *Id.* at 490.

²¹⁴ *Id.* at 490-491.

²¹⁵ *Id.* at 492, 502-503.

²¹⁶ *Id.* at 493-44.

- c. When he indicated he did not think the license revocation was a proportionate action by the Department he was aware of the involvement of only one policy.²¹⁷
- d. He stated that if they have problems with an agent that has issues with two or three applications, they will talk to the agent and perhaps put the agent on a three-to-six-month probation. However, he is aware that if an agent's action becomes severe, the insurance carrier would take further action.²¹⁸

I. Closing Arguments.

1. In her closing statement, the Department's Counsel asked that the Department's Summary Order revoking the Respondent's license be upheld based on testimony and evidence presented at the hearing that Respondent (1) made material misstatements in the policy Application; (2) did not have the consent and authority of K.H, implied or otherwise, to apply for the policy on her behalf; and (3) caused her signature to effectively be forged on the Application and its related documents multiple times. Further, as the producer, he had certified that the information in the Application was complete and accurate, when he was fully aware that it was not. All of these facts, as well as others, supported SBLI's termination of the Respondent for (1) misrepresenting the provisions, terms and conditions in an . . . application for an insurance; (2) using fraudulent, coercive or dishonest practice, and (3) forging another person's name to an application or document. The Department's internal investigation confirmed SBLI's findings. The Respondent's purported "good intentions" of wanting to take care of his daughters does not excuse violating Kansas insurance laws, nor perpetuating fraud upon an insurance company.

The argument for leniency due the Respondent's "lack of experience" and training also don't excuse the violations he admitted. It is incumbent upon an insurance producer to protect his insurance

²¹⁷ *Id.* at 501.

²¹⁸ *Id.* at 502.

clients by ensuring he understands the importance of information requested in an application and completes it accurately. If he did not understand what he was doing, he should have sought assistance or advice. Rather, he subjectively decided certain information wasn't important, especially when it was inconvenient for him to obtain the information.

Although the Respondent's conduct was originally made known to the Department by K.H., the Department took the revocation action based upon the facts uncovered in the investigations conducted by both SBLI and its own internal investigation into SBLI's termination of Respondent's appointment for cause. K.H.'s motives are not at issue in this matter. The evidence presented clearly established a violation of several provisions in the insurance code, not just in the application he submitted for K.H., but in a plethora of other applications as well. The evidence, from the hearing, taken as a whole, clearly established the Respondent had demonstrated dishonest or incompetent in his insurance business practices, and therefore the Department's Summary Order should be upheld.

2. In his closing statement, the Respondent's Counsel again reiterated this case was driven by a "woman who really felt like she had been betrayed," and that the case boiled down to only the issue of whether Respondent had K.H.'s consent to apply for the policy. He argued that any lack of consent or irregularities that Respondent took were a function of the structure of his marriage to K.H. Further, the Respondent had a good faith belief that K.H. did or would consent to the Application. He further argued that the Respondent had no intent to be dishonest in what he did; rather his actions were for the good of his family. He asked for weight to be given to his character references and the witness which thought enough of the Respondent to travel from New Mexico to testify in person on Respondent's behalf. He further argued that Respondent's lack of training and inexperience excused any incompetence which may have been demonstrated. He asked the Presiding Officer to take into consideration the number of people who rely on him as an insurance producer, that the Respondent's character is good, that he "brings a lot to

the insurance industry,” and a remedy should be fashioned for him to engage in remedial measures as opposed to revocation.

III. Applicable Law

1. The Presiding Officer is the Assistant Commissioner of Insurance and acts on behalf of the Commissioner of Insurance as the agency head as provided in K.S.A. 77-547.

2. K.S.A. 40-4909(a) provides, in relevant part, that the Commissioner may revoke a producer’s license if the Commissioner finds that the applicant or license holder has:

Violated . . . *any* provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule or regulation promulgated thereunder;

Intentionally misrepresented the provisions, terms and conditions of an actual or proposed insurance contract *or application for insurance*;

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.

*Forged another person's name to an application for insurance or to any document related to an insurance transaction.*²¹⁹

3. K.S.A. 40-2404(11) provides:

The following are hereby defined as . . . unfair or deceptive acts or practices in the business of insurance: *Making false or fraudulent statements or representations on or relative to an application for an insurance policy*, for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual. [Emphasis added.]

4. The definition of the term “fraudulent practice” in K.S.A. 40-4909(a)(8) is informed by K.S.A. 40-2,118 which provides that “fraudulent insurance act” means:

[A]n act committed by any person who, *knowingly and with intent to defraud* [] prepares with knowledge or belief *that it will be presented to or by an insurer, . . . as part of, or in support of, an application for the issuance of, . . . an insurance policy for personal* [] insurance, . . . which such person *knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading,* information concerning any fact material thereto.²²⁰

²¹⁹ K.S.A. 40-4909(a)(2), (5), (8), (10) (emphasis added).

²²⁰ K.S.A. 40-2,118(a) (emphasis added).

5. K.S.A. 40-205c, entitled “Revocation of agent’s license; hearing,” provides:

Whenever the commissioner of insurance is in possession of information indicating that any licensed agent is not of good business repute, or *does not serve the interest of the public under such license*, or for any other good cause, the commissioner of insurance may issue an order requiring such agent to show cause why the agent’s license should not be revoked, and in any such order the commissioner of insurance shall fix the time and place for a hearing which shall be conducted in accordance with the provisions of the Kansas administrative procedure act. After the hearing, the commissioner of insurance shall have the right to continue or revoke the license according to the findings made at such hearing.

6. Further, K.S.A. 40-241 provides the Commissioner need only issue a license if she or he “finds that the individual applicant is *trustworthy, competent* and has satisfactorily completed the [appropriate licensing] examination ...” (emphasis added).

7. In addition, the Commissioner “may deny, suspend, revoke or refuse renewal of any license issued under this 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. 40-4909(b) (emphasis added).

8. Protection of the public has long been recognized as an important function of the Insurance Commissioner. *Blue Cross and Blue Shield of Kansas, Inc. v. Praeger*, 276 Kan. 232, 248 (2003).²²¹

9. 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.

IV. Findings of Fact

At the outset, the Presiding Officer feels it is important to note that this matter involves the single issue of the Respondent’s termination for cause by SBLI and the Department’s subsequent revocation of the Respondent’s license based upon the facts and circumstances underlying that termination for cause. It does *not* involve the complaint filed with the Department by K.H., who was variously described as a

²²¹ Citing *Mutual Casualty Co. v. Hobbs*, 149 Kan. 625, 633 (1939).

vindictive estranged spouse who filed the complaint to purportedly “weaponize” the Respondent’s actions to gain leverage in their divorce proceedings.

It is correct that K.H.’s complaint initiated a series of events which ultimately led to SBLI learning of Respondent’s actions which caused it to terminate his appointment with the company. That termination for cause is the reason for the Department’s investigation into Respondent’s actions and ultimately issuing the Summary Order revoking the Respondent’s license. The events surrounding the Respondent’s application for the Policy on K.H., the relationship between K.H. and Respondent, communications between Respondent and K.H., and K.H.’s communications with the Department and SBLI are set forth herein for the purpose of analyzing various defenses raised by the Respondent.

The Presiding Officer makes the following Findings of Fact:

Credibility of Witnesses.

1. The Presiding Officer’s role, in part, is to evaluate the credibility of the witnesses based on demeanor, tone, consistency in testimony and evidence,⁹ and other factors. She had ample opportunity to judge the credibility of the witnesses, including K.H. and the Respondent, during the extensive direct and cross examinations of each of them. The Presiding Officer has considered the evidence offered by the parties, including testimony and exhibits offered, as detailed at length above, and finds the credible evidence presented supports the Findings and Conclusions in the Summary Order, with one non-material exception.²²²

2. The Presiding Officer specifically finds that K.H. was a credible witness and had no motive to testify falsely or incompletely. Indeed, when this matter was tried, the insurance policy had been cancelled for nearly two years and the divorce proceeding had concluded sixteen months prior. Although her testimony made clear that their separation and divorce involved bitter feelings and was acrimonious

²²² The evidence did not support the finding in paragraph 11 of the Summary Order that the Respondent attempted to cancel the Policy in January of 2022.

at times, it did not dissuade the Presiding Officer from believing K.H.'s testimony as it related to the status of the parties' relationship in December of 2021 and 2022. It is clear K.H.'s actions in filing complaints with the Department were compelled by her desire to stop the Respondent from using her personal information without her knowledge or permission, particularly during a time when they were separated. There was no evidence to support the Respondent's claim that she was motivated by a desire to retaliate against him for the affair which ended their marriage.

3. By contrast, the Presiding Officer finds that the Respondent's testimony was less than credible at times. While Respondent was articulate and seemingly earnest, his testimony at the hearing seemed rather jocular and cavalier at times, giving the impression that he was unaware of the serious nature of the allegations involved in the matter. His testimony also was at times evasive, inconsistent, and implausible. Further, he had a motive to testify falsely or incompletely to avoid the potential revocation of his license.

4. The Presiding Officer did not find the letters of support written on Respondent's behalf to be particularly credible, and as such does not place great weight on them. Those that merely praise the Respondent's positive character attributes are not helpful because they appear to be written without knowledge of the revocation of Respondent's license. Those which do reference the revocation indicate a clear absence of knowledge of the circumstances underlying the licensing action. The situation at hand is not merely something arising out of a "personal matter" or from someone with a "vendetta" against the Respondent. Rather, Respondent's conduct most certainly involved his conduct as an insurance producer. It is clear there is here little or no knowledge of the allegations against the Respondent. Also, the similar, and sometimes identical wording in the letters makes them less than credible. No doubt Respondent is well-liked by his clients and colleagues; however, this does not negate or excuse the Respondent's conduct. Overall, the letters are not helpful or persuasive in this matter in that they do not address the true nature of the situation involving the Respondent. Moreover, they do not provide reasoning or persuasive

arguments as to why an action other than revocation is warranted, other than expressing the opinion that the revocation of Respondent's license seems harsh and unwarranted.

5. Similarly, the Presiding Officer does not to place great weight on Mr. [REDACTED] testimony, particularly because he knew very little about the circumstances underlying the Department's reasons for issuing the Summary Order, stating he understood it involved only "something to do with a signature involving his ex-wife." When provided with more information about some of the Respondent's actions which formed the basis for SBLI's termination of Respondent's appointment and the Department's Summary Order, he concurred that those types of actions were not appropriate.

K.H.'s Implied Consent to the Policy Application.

6. The Presiding Officer finds that K.H. did not either *expressly* agree to the Application before it was submitted by the Respondent, nor did she in any way *give implied* consent to the Application. Respondent's Counsel valiantly argued that there was a Principal/Agent relationship between K.H. and Respondent by virtue of the way they conducted their marriage prior to their separation where the Respondent was the primary if not sole decision-maker for the family, including being in charge of the family finances. As the Respondent argued in his Memorandum of Law filed November 28, 2023, neither husband nor wife has the power to act as the other's agent merely by virtue of the marital relation, nevertheless, an agency relation may be implied from other facts, such as the statement of the parties, their conduct and the relevant circumstances.²²³

7. The Presiding Officer recognizes the Respondent's position that prior to the couple's separation, their conduct may have created implied authority for the Respondent to act on behalf of K.H. regarding financial decisions, including applications for life insurance.²²⁴ However, any such implied authority terminated upon the couple's separation. This is borne out by the introductory paragraph of the

²²³ Citing *Grohusky v. Atlas Assurance Co.*, 195 Kan 626, 628 (1965).

²²⁴ However, that implied authority does not extend to the Respondent making false and fraudulent statements to SBLI on the application, including forging K.H.'s signature on the application.

Temporary Order which states that the Order's purpose was to "make orderly provisions" for the two to "live separate and apart from each other" until the divorce proceedings were finalized. As such, this Order effectively displaced any ability of the Respondent to make *family* decisions, much less make any decisions for or on behalf of K.H.

8. Relevant here are other authorities which note what is required to create an implied agency:

An implied agency must be based on facts for which the principal [here K.H.] is responsible. These facts must, in the absence of estoppel, be such as to imply an intention to create the agency, and the implication must arise from a natural and reasonable, and not from a forced, strained or distorted, construction of them. They must lead to the reasonable conclusion that mutual assent exists, and be such as naturally lead another to believe in and to rely on the agency. The existence of the relation will not be assumed.²²⁵

As noted by the Department in its Brief of January 9, 2024, the burden to prove an agency relationship exists is on the party asserting it, and it must be demonstrated by clear and convincing, substantial evidence.²²⁶

9. The testimony was clear that a broken relationship existed between the parties. Respondent suggested that at the time he applied for the Policy that he had reason to believe they were on a path to reconciliation because (1) he and K.H. were "on speaking terms," (2) K.H. invited the Respondent to spend Christmas morning with their daughters, and (3) he was working on the reconciliation plan that K.H. had proposed. K.H.'s testimony indicated the relationship continued to be broken despite the Christmas visit, as she testified that between Christmas and when the Application was submitted, K.H. told the Respondent she needed to move forward with the divorce to protect herself from him. The Respondent falls far short of carrying his burden by demonstrating by substantial evidence that is clear and convincing that shows that K.H. implied an intention to allow the Respondent to act as her agent to undertake such matters as procuring a life insurance policy on her behalf. His thin reasons fall squarely

²²⁵ C.J.S. Agency at 626 § 52, cited in P.I.K. Civ. 4th107.1; and 2 C.J.S. Agency at 1045-1046 § 23.

²²⁶ *Bunge Milling, Inc. v. City of Atchinson*, 49 Kan. App. 2d 321, 335 (2013).

within the caveat that the implication of agency cannot arise from a forced, strained or distorted, construction of the facts or circumstances. A reasonable person would not conclude that circumstances existed to allow the Respondent to believe K.H. intended to imply that he could return to making financial decisions for the family, or that she consented to Respondent taking actions that fell outside of the terms of the Temporary Order.

K.H.'s Consent to the Application was not Required.

10. It is also not a convincing argument that the Respondent did not need K.H.'s consent, express or implied, to apply for the Policy because they had a common interest in providing for their children in the event of K.H.'s death. An agency will not be inferred because the conditions or circumstances were such as to make an agency seem natural and probable and to the advantage of the supposed principal.²²⁷ Again, the Respondent does not carry his burden of establishing that he did not have any reason to believe he needed her consent to apply for the Policy because he believed that their goals and desires for their daughters were the same. An agency relationship cannot be implied simply because Respondent believed K.H. would see the Policy as advantageous for their daughters.

K.H. Ratified Respondent's Actions.

11. Respondent next argues that even if he did not have K.H.'s implied consent to apply for the Policy, K.H. nevertheless ratified the Respondent's acts. Ratification is the adoption or confirmation by a principal (K.H.) of an act on her behalf by an agent (Respondent) which was performed by the agent without authority from the principal.²²⁸ Once a principal knows of an agent's unauthorized actions, she cannot sit back and see if she will benefit from the agent's actions. Instead, a principal who receives notice of an unauthorized act of an agent must promptly repudiate the agent's actions or it is presumed that the

²²⁷ 2 C.J.S. Agency at 1045-1046 § 23.

²²⁸ *Smith v. Printup*, 254 Kan 315, 339 (1993).

principal ratified the act.²²⁹ However, what is considered a reasonable time to repudiate an unauthorized act is a question of fact.²³⁰

12. Respondent argues K.H. ratified Respondent's applying for the Policy by failing to cancel it for seven months. This, however, negates the evidence from the hearing that K.H. took timely, ongoing and affirmative steps to bring Respondent's unauthorized conduct to the attention of both SBLI and the Department. Her communications expressed her concern and disapproval of Respondent's actions. She made it clear in her communications that Respondent had acted without her knowledge, consent or authority, and such caused her considerable distress. She did not understand how the insurance was acquired, so understandably took time to vet the situation before accusing the Respondent of a wrongful or illegal action. She also admitted she was afraid of the way the Respondent might act if she told him she didn't want the Policy or if she made a complaint about it. In her January 20, 2022, email to the Department she inquired about consequences for a licensed insurance agent applying for insurance on behalf of another without the person's consent. She stated in that email that if there was nothing that would be done to the Respondent, she would just cancel the Policy. However, she expressed concern on at least two occasions that she felt that if she cancelled the Policy there was nothing to stop the Respondent from applying for another on her, but that he "would just hide it better." K.H. also advised of her concern that if she cancelled the Policy, it could impede any investigation into Respondent's actions in obtaining the Policy.

13. Following a heated argument in April, K.H. told the Respondent she "was uncomfortable" with the Policy, after which he made two calls to SBLI to try to cancel it. K.H., frustrated by the Department closing her March 7 inquiry (since they were asked not to contact the Respondent), filed a formal complaint against the Respondent with the Department, providing the "Very Concerned Friend" statement as well as the recording of the telephone call between the two on January 12th. She specifically

²²⁹ *Theis v. duPont, Glove Forgan, Inc.*, 212 Kan 301, 305 (1973).

²³⁰ *Id.*

asked that the Respondent receive some discipline for his actions so that he would be dissuaded from using her personal information again in this manner.

14. As mentioned earlier, this complaint led to communications and sharing of information between SBLI and the Department. This information caused SBLI to investigate whether the Respondent had engaged in fraudulent conduct or violated insurance laws vis-à-vis SBLI. When it determined this had occurred, it terminated Respondent's contract for appointment with the company, and then contacted K.H. to ask if she wanted to keep the Policy since she had not applied for it or authorized it. As stated by the SBLI witness, K.H. was *adamant* that she didn't want the Policy, so it was cancelled "NTO" or back to the date of issuance, being treated as if it had never been taken out. Under these circumstances, the policy was voided *ab initio*, rather than merely cancelled on a forward going basis, meaning it was rescinded as though it had never been issued in the first place.

15. Under these circumstances, the Presiding Officer finds that K.H.'s actions after learning about the Policy clearly demonstrate there was no acceptance or ratification of what Respondent had done. Respondent implies that K.H. must have uttered magic words to the effect, "I want the Policy cancelled," to establish repudiation of Respondent obtaining the Policy. There is no question that K.H. repeatedly advised that she didn't want the Policy, hadn't applied for it, and that she felt it was wrong that Respondent had obtained it without her knowledge or consent. No reasonable person could have believed under the circumstances that she had ratified the Respondent's actions. Under these circumstances, K.H.'s actions resulting in the voiding of the Policy *ab initio* by SBLI in July of 2022 was reasonable and sufficient to repudiate the Respondent's actions in applying for the Policy.

Termination for Cause and Summary Order

16. Regardless of the foregoing analysis, the issues of implied consent and/or ratification of Respondent's actions are not particularly relevant to or determinative of this matter. The penultimate issue is whether there is sufficient evidence to support the Department's findings that Respondent engaged in

fraudulent and dishonest acts against an insured or an insurer, or otherwise committed violations of the Kansas Insurance Code sufficient to warrant the revocation of his insurance producer license. The violations at the heart of the Department's case do not relate to the Respondent's actions purportedly taken as a husband on behalf of his estranged wife, but rather his actions specifically as a licensed insurance producer in the state of Kansas. The Commissioner of Insurance is responsible for protecting both the interests of insurers and the insurable interests of the public. Protection of the public has long been recognized as an important function of the Insurance Commissioner. The Commissioner has the authority, *indeed* the duty, to revoke the license of an agent that commits acts contrary to the interests of insurers and insureds. The Commissioner is also authorized to revoke the license of an agent that has been shown to be untrustworthy and incompetent.

17. The facts establish and the Presiding Officer finds that the Respondent caused K.H.'s signature to be affixed to the Policy's application and other documents related to the Policy without her knowledge or authority. This constitutes forging another person's name to an application for insurance.²³¹ This included an attestation that K.H. had read the Application, that she was the owner, applicant and payor of premiums, and that all information on the application was true and complete.

18. The Presiding Officer also finds that the evidence establishes that the Respondent made false statements in the application, including K.H.'s height and weight, her annual salary, her medical history, that she had no family history of [REDACTED] and that she had no other life insurance policies. He also testified he didn't advise his clients that providing inaccurate or false information in an insurance application could invalidate the coverage or even result in criminal prosecution. He signed K.H.'s policy

²³¹ The criminal law definition of forgery informs this finding. Forgery is, "with intent to defraud: ... [m]aking, altering or endorsing any written instrument in such manner that it purports to have been made, altered or endorsed by another person, either real or fictitious, and if a real person without the authority of such person; or ... making, altering or endorsing any written instrument in such manner that it purports to have been made, altered or endorsed with the authority of one who did not give such authority" K.S.A. 21-5823(a)(1). *See also* 40-417 (false or fraudulent statement in life insurance application is criminal offense).

as the Producer certifying that all information in the policy was complete and accurate. These constitute making false or fraudulent statement or representations in an application for an insurance policy.

19. The Presiding Officer specifically rejects the Respondent's claim that his conduct was the result of inexperience and not incompetence. Importantly, the Presiding Officer notes that the Respondent admitted that there were training videos pertaining to completion of applications that he could have watched; however, he didn't avail himself of those or any others for that matter. He testified that instructions on completing applications were handed down from agent to agent, or else learned on the job. He also didn't seek help from SBLI in the completion of applications. He expressed an attitude that if obtaining correct information for an application (such as information relating to other insurance policies) was inconvenient, he simply would pass over the question. This seems driven more by laziness than inexperience. Further, on its face, the SBLI application seems neither technical nor difficult to follow, and its requirements are spelled out in black and white. The Presiding Officer does not agree that the Respondent's conduct in either completing K.H.'s application, or the many others that he admitted he completed inaccurately, was due to inexperience. Rather, she finds this conduct to be the epitome of incompetence.

20. The Respondent argues that he cannot be found to have committed any dishonest or fraudulent acts because he did not have the requisite intent to do so. Of course, "[i]ntent is usually proven by inference arising from circumstantial evidence because direct evidence of a defendant's state of mind is rarely available."²³² The Presiding Officer rejects this argument finding that the Respondent's conduct clearly established he had the intent to deceive and provide incomplete and inaccurate information in the application submitted to SBLI, thus committing violations of Kansas insurance laws. These include: (1) he used his own email address and phone number on the application, instead of K.H.'s, knowing that the application would be sent to him allowing him to "sign" on her behalf; (2) he signed K.H.'s signature to

²³² *E.g., State v. Gonzalez*, 311 Kan. 281, 288 (2020).

the document authorizing the policy and related documents to be e-delivered to him, thereby preventing K.H. from learning about the Policy; (3) he falsified K.H.'s income on the application; (4) he provided false family medical history for K.H.; (5) he did not disclose the existence of other insurance owned by K.H.; (6) he verified - as the insurance producer - the completeness and accuracy of the information in the application; (7) he had premiums paid from an account owned only by him, again preventing K.H. from knowing about the Policy; and (8) he was not truthful during the hearing when he said he told K.H. during their January 12, 2022, phone call that she was the owner of the policy such that she could cancel it or change the beneficiary if she wanted.²³³ The Presiding Officer finds the Respondent's actions clearly establish an intent to commit dishonest and fraudulent acts, both as to K.H., as well as to SBLI.

21. The Presiding Officer was also surprised to learn from the Respondent's testimony during the hearing that he has established his own insurance agency in Kansas, employs several dozen agents, and trains and mentors them and others within the IMO. It was quite troubling to learn that the Respondent did not have a business entity insurance producer license for that agency from the Department, nor did it seem that he was even aware that such was required. He was instructed to contact the Department to submit the required license.

22. Most troubling to the Presiding Officer and perhaps greater evidence of dishonest, incompetent, fraudulent and untrustworthy actions by the Respondent was his cavalier admission during the hearing that he falsified information about the existence of other life insurance on perhaps as many as 100 other applications submitted for his insurance clients. He seemed oblivious and somewhat unconcerned that false statements and omissions of that nature could cause a death claim to be denied or the benefit reduced if a claim was made during the policy's contestability period. It was only upon the suggestion of the Presiding Officer that it was his responsibility to correct such errors that he agreed it

²³³ The transcript of the recording establishes he only told her he was paying for the premiums.

might be a good idea to undertake such measures.²³⁴ Such an admission creates a concern as to what other types of omissions or false statements may have been made by the Respondent in completing applications for clients, particularly given his testimony that most clients don't read any of the disclosures or certification and verification statement, but instead tend to just sign in order to have the application submitted quickly.

V. Policy Reasons

1. The Commissioner of Insurance is charged with protecting the insurable interests of the public and insurance consumers in Kansas.

2. The Commissioner should only maintain in good standing the licenses of insurance producers who do not engage in fraudulent or dishonest practices or demonstrate incompetence or untrustworthiness in conducting the business of insurance, forge another person's name to an application for insurance, make false or fraudulent statements on an application for an insurance policy, falsify insurance documents or otherwise commit fraudulent acts, in conducting the business of insurance.

3. It is in the public interest that the license of a producer who has engaged in fraudulent or dishonest practices or demonstrated incompetence or untrustworthiness in conducting the business of insurance, forged another person's name to an application for insurance, made false or fraudulent statements on an application for an insurance policy, falsified insurance documents or otherwise committed fraudulent acts, in conducting the business of insurance, be revoked.

VI. Conclusions of Law

The Presiding Officer makes the following Conclusions of Law:

1. The Presiding Officer determines for purposes of this case that the burden of persuasion is on the Department as to the allegations set forth in the Summary Order. That burden is by a preponderance

²³⁴ Respondent's Counsel sent a letter to the Department's counsel dated June 18, 2024, a copy of which was provided to the Presiding Officer, stating that Respondent is in the process of correcting those other policies.

of the evidence. That said, the burden of proof on claims in the nature of affirmative defenses, such as those raised by Respondent (*i.e.* implied consent and ratification), are on him.

2. The Presiding Officer has specifically considered the arguments and factors most favorable to Respondent, however for the reasons set forth herein and based on the Findings of Fact, makes the following conclusions of law.

K.H.'s Implied Consent to the Policy Application.

3. The Presiding Officer rejects the claim that the Respondent had the implied consent of K.H. to apply for the policy. The Findings of Fact made by the Presiding Officer on this issue and based on the legal authorities cited in connection therewith, preclude the determination as a matter of law that an implied agency existed between K.H. and the Respondent at the time in question.

K.H.'s Consent to the Application was not Required.

4. Similarly, the Presiding Officer rejects the claim that K.H.'s consent was not necessary because he and K.H. had common interests in providing for their daughters. As stated in the Findings of Fact on this issue, based on applicable law, the Respondent was not excused from obtaining the consent of K.H. simply because he believed K.H. would see the Policy as advantageous for their daughters.

K.H. Ratified Respondent's Actions.

5. As set forth in the Findings of Fact, the Presiding Officer rejects the argument that K.H. ratified the Respondent's application for the Policy. K.H.'s ongoing communications and actions clearly demonstrated her repudiation of what Respondent had done. The Presiding Officer is unpersuaded that that K.H.'s alleged delay in cancelling the policy after she became aware of it constituted her ratification of Respondent's actions. The Presiding Officer accepts K.H.'s explanations, as noted in the Findings, above, as to why she did affirmatively cancel the policy, but also notes that K.H.'s actions most certainly made SBLI and the Department aware that she did not authorize the Policy and as such repudiated

Respondent's actions. In any event, this claim as a matter of law, even if proven, would be insufficient to overcome the positive commands of Kansas insurance law, as herein noted.

6. With regard to the Conclusions set forth in the preceding three paragraphs, these claims are in the nature of affirmatives defenses, and the Presiding Officer determines that the evidence of such was slim, unpersuasive to her, that Respondent did not sustain the burden he had with respect to such claims,²³⁵ and are therefore rejected.

7. Also, with regard to the conclusions in paragraphs 3, 4, and 5, above, the Presiding Officer appreciates Respondent's Counsel's creativity in arguing these points; however, his arguments must fail because they do not take into account the fact that, as a matter of law, this case is not simply an issue between K.H. and Respondent. Rather, this case involves a *licensing* issue pursuant to a regulatory scheme set forth by Kansas law. The essential nature of his argument is that such claimed consent or ratification by K.H. is sufficient to *estop* the Department from enforcing the positive commands of statute as reflected in K.S.A. 40-2404, 40-4901 *et seq.*, and elsewhere. As previously noted, these statutes place the authority and responsibility for regulating the licensing of insurance producers on the Commissioner of Insurance.

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8. The Presiding Officer rejects the claim that Respondent's conduct was the result of inexperience and not incompetence. While the Respondent was relatively inexperienced, there is little that can excuse Respondent's applying for a policy without K.H.'s consent, effectively forging her signature, inputting incorrect information, and otherwise failing to follow the instructions in the Application. Given the Respondent's role as a licensed insurance producer, he is charged with knowing such actions are not acceptable and that care needs to be taken to accurately complete applications for insurance.

²³⁵ In his February 23, 2024, Memorandum of Law at 2 n.1, the Respondent's counsel conceded that Respondent "has the burden to establish implied agency"

9. The Presiding Officer also rejects Respondent's claim that there was no evidence of intent to defraud. As detailed under the Findings of Fact, there was ample circumstantial evidence of Respondent's intent. Penultimately, it is not so much that Respondent was attempting to defraud *K.H.* as he was attempting to defraud *SBLI* because he led it to believe that *K.H.* had applied for the policy at issue here, and also made other misrepresentations concerning her situation (such as her health, existence of other insurance, *etc.*).

10. The Presiding Officer does not accept the Respondent's claim that *K.H.*'s complaint was driven by her upset with Respondent's extra-marital affair and an attempt to gain leverage in the divorce case. The Department's allegations here were thoroughly investigated and went through the hearing process, and evidence of such a motivation by *K.H.* was not shown to exist except for isolated speculation on Respondent's part. This claim is also rejected because as a matter of law, even if proven, it would be insufficient to overcome the positive commands of Kansas insurance law, as herein noted.

11. The Presiding Officer finds that the Respondent's claims that he is of good, ethical and moral character, has a bright future as an insurance agent, desires/needs to provide for his family, is considered a good insurance agent by his clients, and is seen as an asset by his employer, are not relevant to this matter, other than in considering whether the revocation of his license, as opposed to some lesser sanction, should stand.

12. The Presiding Officer has reviewed the exhibits constituting the character references offered by Respondent, and heard the testimony offered at the hearing to the same effect. Her determination that these are to be given little weight as a matter of law is discussed under the Findings of Fact.

13. The Presiding Officer is unpersuaded that the Respondent should be afforded a lesser sanction than revocation and exercises her discretion to affirm the Summary Order in this respect.²³⁶ The violations shown to have occurred in this matter are egregious. They demonstrate an extreme lack of concern for Respondent's insurance clients, including K.H., a lack of understanding of the seriousness of submitting false and fraudulent documents to an insurer, and a nonchalance toward actions, such as forging another's name, that most persons know or should know are inherently wrong and could even be considered criminal in nature.

14. Finally, the Commissioner has broad authority to administer, enforce, and interpret laws applicable to licensing producers to sell insurance in this state. The Commissioner believes her responsibility to protect the insurable interests of the public and insurance consumers in Kansas is paramount in situations such as this. It is not disputed that the Commissioner has discretion under applicable statutes to determine the appropriate discipline for Respondent and others. The Presiding Officer, acting for the Commissioner, has consistently revoked producers' licenses in situations involving terminations for cause due to violations of insurance laws, including dishonest or fraudulent conduct.

VII. ORDER

1. The Presiding Officer, acting on behalf of the Commissioner, has jurisdiction over Respondent as well as the subject matter of this proceeding, and has the authority to issue a Final Order.

2. The Presiding Officer finds that, after review of the evidence presented at the hearing, and after carefully judging the credibility of the witnesses and the testimony and evidence offered by the Department and Respondent, that the Respondent:

- a. Made false and fraudulent statements on an application for an insurance policy;

²³⁶ While the Presiding Officer has power under the Kansas Administrative Procedure Act to modify the Summary Order issued by the Department, *Kansas Dep't of Transp. v. Humphreys*, 266 Kan. 179 (1998), she declines to do so considering the seriousness of the Department's allegations here.

- b. Used fraudulent, coercive or dishonest practice and demonstrated incompetence and untrustworthiness in the conduct of the business of insurance in this state; and
- c. Forged another person's name to an application for insurance without her consent, knowledge or permission.

3. The Presiding Officer also finds, pursuant to K.S.A. 40-2404 and 40-4909(b), that the interests of insurers and insurance consumers in Kansas are not properly served by allowing the Respondent to remain licensed in Kansas.

4. Accordingly, the Presiding Officer concludes that sufficient grounds exist for the revocation of the insurance producer's license of the Respondent pursuant to K.S.A. 40-2404 and K.S.A. 40-4901 *et seq.*, and, and hereby affirms the Summary Order in all respects as herein detailed.

IT IS THEREFORE ORDERED THAT the Kansas resident insurance agent's license of Todd Hoiseth is hereby **REVOKED** as of the effective date of this Order.

IT IS FURTHER ORDERED that Todd Hoiseth shall **CEASE and DESIST** from the sale, solicitation or negotiation of insurance in Kansas and/or receiving compensation derived from the sale, solicitation or negotiation of insurance conducted in Kansas after the effective date of this Order.

IT IS FURTHER ORDERED, pursuant to K.S.A. 77-528, that this Final Order shall not be effective until the time at which a petition for judicial review would no longer be timely.

IT IS SO ORDERED THIS 30th DAY OF AUGUST 2024, 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 and
Presiding Officer

NOTICE OF RIGHT SEEK TO SEEK RECONSIDERATION

Pursuant to K.S.A. 77-529(a)(1), Respondent is notified that he may, within 15 days after service of this Final Order, file a petition for reconsideration, stating the specific grounds upon which relief is requested. The filing of the petition is not a prerequisite for seeking administrative or judicial review. In the event Respondent files a petition for reconsideration, the Agency Officer to be served on behalf of the Kansas Insurance Department pursuant to K.S.A. 77-531, is:

Justin L. McFarland, General Counsel
Kansas Insurance Department
1300 SW Arrowhead Road
Topeka, KS 66604

NOTICE OF RIGHT TO SEEK JUDICIAL REVIEW

Pursuant to K.S.A. 77-601 *et seq.*, Respondent is notified that he is entitled to seek judicial review of this Final Order. Any such 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 or electronically) pursuant to K.S.A. 77-613. In the event Respondent files a petition for judicial review, the Agency Officer to be served on behalf of the Kansas Insurance Department pursuant to K.S.A. 77-615, is:

Justin L. McFarland, General Counsel
Kansas Insurance Department
1300 SW Arrowhead Road
Topeka, KS 66604

If a petition for judicial review is not filed, this Final Order shall become effective, without further notice, upon the expiration of the thirty (30) day period of service (plus three (3) days for service by mail or electronically) for requesting judicial review.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that pursuant to K.S.A. 77-531 she served a true and correct copy of the above and foregoing FINAL ORDER on this 30th day of August, 2024, by causing the same to be placed in the United States Mail, first class postage prepaid and properly addressed to the following:

Jack Peggs
Mindy Wheeler
Peggs Wheeler, LC
Center Point at Main
100 South Main, Suite 420
Wichita KS 67202
[REDACTED]@peggs-wheeler.com
[REDACTED]@peggs-wheeler.com
Counsel for Respondent

And by causing the same to be placed in the United States Mail, first class postage prepaid and properly addressed to the following:

Todd Hoiseth
[REDACTED]
Wichita KS 67226
Respondent

And also served a true and correct copy of the same on the same day by hand-delivering a true and correct copy of the same to the following:

Vicki Schmidt, Commissioner of Insurance
c/o
Kimberley Davenport Megrail
Senior Attorney
Kansas Insurance Department
1300 SW Arrowhead Road
Topeka, KS 66604

Counsel for the Kansas Department of Insurance


Mindy Forrer
Legal Assistant