

**In the Matter of the Nonrenewal and  
Revocation of a Resident Insurance Producer's  
License of JUAN TORRES  
NPN # 12848172**

1. Respondent was first licensed as a Kansas resident insurance producer in Kansas on February 20, 2009. His license was suspended due to his failure to renew his license by his biennial renewal date of March 31, 2024.
2. Respondent submitted the required renewal application on June 17, 2024, (“Application”) along with a reinstatement fee.

3. On the Application, the Respondent disclosed having a misdemeanor conviction, and a child support arrearage. Statements obtained by the Department<sup>1</sup> in its review of the Application indicated the Applicant was arrested on misdemeanor charges in 2022 (for which he entered into a diversion agreement) and convicted on separate misdemeanor charges in 2024.

4. The misdemeanor conviction had not been reported to the Department within 30 days of the conviction as required by K.S.A. 40-4905(f)(1)(D).

5. The Department refused to renew and revoked the Respondent's license by a Summary Order dated August 28, 2024.

6. Respondent timely filed a request for a hearing.

7. The following relevant facts regarding the refusal to renew and revocation were established at the February 6, 2025, formal hearing by documents<sup>2</sup> introduced into evidence by the Department and by testimony of Monicka Richmeier, the Department's Director of Licensing ("Department's Witness"):

a. Evidence was introduced regarding the following criminal matters:

- i. Cowley County District Court, case no. 2022-CR-000232-2, charges of criminal threat and criminal discharge of a weapon (hereinafter, "2022 Charges").
- ii. Saline County District Court, Case No. 2024-CR-000091, charges of criminal threat and harassment by phone (hereinafter, "2024 Charges").

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<sup>1</sup> When applicants have misdemeanor or felony charges or convictions, they are required to provide, in addition to charging and sentencing documents, written statements regarding the circumstances of each incident.

<sup>2</sup> Documents introduced by the Department included police reports; charging, sentencing and disposition documents; and the Respondent's written statements.

2022 Charges:

b. Police reports and other documentation indicated that on July 17, 2022, in response to a report of gunshots fired, Arkansas City police were dispatched to an area near Respondent's home. When officers knocked on Respondent's door, the Respondent opened the door with a handgun pointing out the door. The officers drew their weapons and ordered Respondent to drop his firearm, which he did.

c. At the scene, Respondent denied that he had been shooting a gun and instead attributed the noise to fireworks being set off by neighborhood kids. Respondent admitted that he had been drinking. The officers found numerous shell casings in Respondent's yard of a type consistent with the gun held by the Respondent when he opened the door. The Respondent denied the shell casings were from discharging his gun around his home and instead were from his practice of throwing spent casings in his yard after he practices shooting at a gun range.

d. In various statements to police officers, Respondent said he had the gun when he opened the door because he was afraid a man, "P.F.," would come to his home to confront him. The Respondent said he and P.F. had been at odds because P.F. "had taken [REDACTED] from him" and P.F. was "trying to blackmail [REDACTED]." Respondent had been sending threatening text messages and making threatening calls to P.F. A narrative in one of the police reports provides the following:

[Respondent] said that when he first learned that [P.F.] was blackmailing [REDACTED], he was going to kill him, but he couldn't find him. He said he had full intentions that day of killing P.F. and he was texting him, trying to get [P.F.] to come to him, but [P.F.] would never show up.

e. When asked by police what would have happened if P.F. had shown up to his house instead of the police that day, the Respondent said, "he would have shot him and killed him."

f. The Respondent later told an officer that even though P.F. was a "low life," he was glad he didn't kill P.F. because "it's not worth it."

g. Respondent was charged with unlawfully discharging a firearm within city limits (a class B misdemeanor)<sup>3</sup> and making criminal threats against P.F. (a severity level 9 person felony).<sup>4</sup> He was also ordered to have no further contact with P.F.

h. The Respondent entered into an Agreement for Pretrial Diversion on September 21, 2022, on the charge of unlawful discharge of a firearm in city limits.<sup>5</sup> The Diversion was for a period of twelve months and required the Respondent, *inter alia*, to take a gun safety course, perform twenty-five hours of community service, and pay diversion supervision fees and court costs. An order of successful completion of diversion was entered on September 20, 2023.

i. In a written statement dated March 24, 2023,<sup>6</sup> the Respondent provided the following regarding the 2022 Charges:

I am writing to you to explain what happened on July 17, 2022, in my misdemeanor case. . . . The person who was selling the house that me and [REDACTED] were living in tried to extort [REDACTED] . . . in order for the sale of the house to go through. At that point me and [REDACTED] . . . [A]ll my charges have been dropped except the misdemeanor charge which is the one I am currently in the divergent [sic] program in Cowley county. I

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<sup>3</sup> The criminal complaint indicated this carried a maximum penalty of six months in jail and a fine of up to \$1,000.

<sup>4</sup> Per the complaint, this carried a penalty of five to 17 months in prison and a fine up to \$100,000, with post-release supervision of 12 months.

<sup>5</sup> The Court's website reflects that the criminal threat charge was dismissed.

<sup>6</sup> This statement was addressed to the Oklahoma Department of Insurance. It is presumed the Respondent had uploaded this document to the National Insurance Producer Registry's ("NIPR") Attachments Warehouse in connection with an attempt to obtain an Oklahoma nonresident license.

have not gotten into any trouble ever since. This was a personal matter and something that I am not proud of, I didn't think at the moment that it happened and do fully regret it. I should have managed the situation differently. *But I can assure you It will not happen again.* [Emphasis added.]

j. In a letter dated September 7, 2022, to the judge assigned to his criminal case, which was included with the March 24, 2023, statement referenced above, the Respondent provided the following explanations for the 2022 Charges:

Regarding the charge of Criminal threat. I never directly threatened [sic] [P.F.]. [P.F.] tried to black mail and extort [REDACTED] . . . for [REDACTED] to be able to sale [sic] the house he sold us. I was terribly upset at him and called him the Friday before I was arrested to express my frustration. I told him he was out of line and that I would tell everyone what he did to [REDACTED]. . . . I said something [to the police] I should not have said. I was not in my right mind set and now realize I should not have said that, but I was incredibly angry at him.

. . . .

Regarding discharging a firearm within city limits, I was sleeping when the officers got to my house. They knocked on my door and I thought it was [P.F.] and open[ed] the door with the gun in my hand. Once I saw they were officers I complied and put my gun down. The shell casings that were found [were] from me going to the range and throwing them on the ground.

#### 2024 Charges

k. The 2024 Charges resulted from a complaint made to the Saline County Sheriff's Office by a man, "J.D.," about threatening phone calls and text messages from the Respondent. The messages contained various versions of the Respondent demanding that J.D. tell the Respondent his whereabouts and stating such things as "I'm your worst nightmare, "I'll get you," and "I want to throw down with you. Tell me where." J.D. told officers that the Respondent was the ex-husband of a family friend (meaning the Respondent's [REDACTED], "[REDACTED]") and was under the impression that J.D. and J.D.'s wife were in a "swinger-type relationship" [REDACTED] were drug dealers, and were giving drugs to

Respondent's son. J.D. was afraid the Respondent would show up at his house and harm him or his family.

l. When contacted by officers, the Respondent was intoxicated. He was arrested when he admitted he sent the messages and stated he wanted to "throw down" J.D. and would fight him once he saw him. He was charged on February 9, 2024, with making criminal threats against J.D. (a severity level 9 person felony)<sup>7</sup> and harassment by telecommunication device (a class A nonperson misdemeanor).<sup>8</sup> The charges were amended on April 2, 2024, reducing the felony criminal threat charge to a misdemeanor charge of endangerment.<sup>9</sup>

m. A Journal Entry dated April 17, 2024, reflected the Respondent pled no contest to the endangerment charge (with the court entering a finding of guilty) and that the charge of harassment by telecommunication device was dismissed. Respondent was sentenced to twelve (12) months in jail, which was suspended to six (6) months of unsupervised probation subject to certain conditions, including that he not violate any laws, have no contact with J.D., and pay court costs.

n. The Applicant did not report the Saline County conviction to the Department within the required thirty (30) days; however, he did report that he had been convicted of a misdemeanor on his Application.

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<sup>7</sup> Under K.S.A. 21-5415(a)(1) this is defined as a threat to commit violence communicated with intent to place another in fear. The penalties are set forth in footnote 4 above.

<sup>8</sup> Under K.S.A. 21-6206(a)(1)(B) this is defined as use of a telecommunication device to make or transmit a call with the intent to abuse, threaten, or harass a person. It carries a penalty of up to one year in jail and/or a fine of up to \$2,500.

<sup>9</sup> Under K.S.A. 21-5429(a) this is defined as recklessly exposing another person to a danger of great bodily harm or death. It carries a penalty of up to one year in jail and/or a fine of up to \$2,500.

o. In a written statement to the Department dated June 17, 2024, the Respondent explained the 2024 Charges as follows:

My [REDACTED] is hanging out with [J.D.] who is a drug dealer, swinger and pedophile. I found out he was giving my youngest son drugs when he goes to their house. I was very upset and called the drug dealer on the phone and called him out. I told him I know what he is doing and to stay away from my son. I told him to be a man and not mess with little kids. I told him to meet me out in the streets so we [] could fight. He obviously was scared and called the cops on me and I was arrested. I bailed out and did a plead [sic] agreement and was convicted of endangerment and was sentence [sic] to 6 months of unsupervised probation.

p. Respondent also acknowledged in his Application that he was in arrears on child support obligations.<sup>10</sup> While the child arrearage was not relied on by the Department in its Summary Order, the Applicant provided in his June 17, 2024, statement that he had “a payment agreement to pay \$2300.00 by September 2<sup>nd</sup> 2024.”

q. The Department’s Summary Order notified Respondent that his license was revoked and non-renewed pursuant to (1) K.S.A. 40-4909(a)(6) (misdemeanor conviction); (2) K.S.A. 40-4905(f)(1)(D) (failure to notify Department of misdemeanor conviction); (3) K.S.A. 40-4909(a)(2)(A) (violation of any provision of chapter 40 of Kansas Statutes Annotated); and (4) K.S.A. 40-4909(b) (insurable interests of public would not be served in granting license).

r. The Department's Witness testified that the Department's role in licensing decisions is to ensure that the insurable interests of the public are protected, and that the applicant demonstrates the competence and trustworthiness deemed necessary to be licensed as an insurance producer. Respondent’s renewal application triggered further review given his

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<sup>10</sup> A license application can be denied, revoked or refused renewal for the Applicant’s failure to comply with any child support obligations. See, K.S.A. 40-4909(a)(13).

disclosure of a criminal conviction and information obtained about the 2022 criminal charges.

s. The witness testified in general regarding the review process for an applicant who has criminal convictions or issues which impact the licensing decision. This consists of an initial review by the licensing division, a review by an attorney in the legal division, and finally a review by a committee comprised of senior-level employees from different areas of the Department. This committee reviews applications which contain negative information (such as convictions or recent criminal charges) or otherwise present a concern to the licensing division staff.

t. For criminal convictions, the Department's witness testified that the Department looks more closely at misdemeanors committed within five (5) years, and felonies committed within ten (10) years, of the application. However, these are only general guidelines which are in place to help the Department fairly and uniformly judge all applicants. She further elaborated that each applicant's situation is considered individually, and the application materials are looked in their totality. The Committee considers the factors listed in K.S.A. 4909(c)(1)<sup>11</sup> when a conviction – or other criminal conduct not resulting in a conviction, such as a diversion – is at issue, and weighs both positive and negative factors involved, which can vary greatly between applicants.

u. As to Respondent, the most serious of the statutory factors were the seriousness of the conduct, the recency of the conduct, and the factors underlying the conduct. The Department looks at both original charges and, if applicable, amended charges. Here, for example, both the 2022 and 2024 Charges originally included counts which were classified

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<sup>11</sup> These factors are discussed in detail later in this Order.



as felonies, although later reduced to a misdemeanor charge or dismissed. The Department's witness further testified that the Department is concerned when a "pattern" of behavior is evident, as in this case when both criminal matters involved aggressive and threatening comments and acts. Also, any incident which involves physical violence or threats of physical violence to another person is taken very seriously by the Department, given that it must ensure the safety of the general public and insurance consumers in this state.

v. With regard to recency of the conduct, the incident underlying the 2022 Charges occurred a little over two years prior to the Respondent submitting his Application, and the diversion for that matter ended approximately six months prior to the date of the Application. The conduct underlying 2024 Charges occurred less than three months before the Application was submitted. Further, Respondent was still on unsupervised probation at the time of his Application. The Committee felt there was a troubling pattern of conduct and insufficient time had elapsed since the occurrence of these matters to provide any assurance that the Respondent would not engage in similar conduct in the future.

w. Given these concerns, coupled with the failure to report the conviction to the Department, the Committee concluded the interests of insurance consumers in the state would be best served by denying the Application.

x. The Department's Witness opined that, even without Respondent's failure to report his Saline County criminal conviction to the Department within the statutory timeframe, the Department still would have denied him a license. That said, the failure to report the conviction was important to the Department because it indicated the Respondent was not familiar with duties and responsibilities of insurance producers under the state's insurance statutes and regulations.

8. Respondent's testimony and evidence presented at the hearing provide the following additional information which the Presiding Officer finds relevant on the revocation and non-renewal of his insurance producer's license.

a. Respondent has been an insurance agent since 2009, primarily working in Salina, Kansas. At some point he had an opportunity to acquire an insurance agency in Arkansas City, so relocated his family there. The family, consisting of the Respondent, his [REDACTED] and two sons, were living in apartment when the COVID-19 pandemic was declared, which created a challenging situation for the family. Eventually the family moved into a house that was sold to them by P.F. The Respondent had COVID numerous times and testified he developed anemia as a result. He also detailed several other health-related issues he struggled with since that time. At some point, Respondent and [REDACTED] separated, and Respondent moved into a separate residence.

b. Respondent also testified that he was not going to lie during the hearing; he was going to be truthful about what happened even though he was not honest with police and others about what occurred. Toward the end of the hearing, the Respondent reiterated:

I told you from the beginning that I was going to be honest with you. I have been honest with you. Everything I told you is true because . . . you're going to find out anyways. And like I said, I don't like lying, because one lie leads to another lie, another lie, another lie, another lie. So, I [am] asking for your forgiveness.

#### 2022 Charges

c. After the [REDACTED], in an upset state, called the Respondent and said P.F. would hold up the sale of the house she was still living in with the children unless she did sexual favors for P.F. Respondent testified he wanted his wife to report the incident to police but she refused. Respondent testified he was very upset at P.F. because his purported demand

for sexual favors had insulted [REDACTED] and Respondent's family. He was under a lot of stress due to ongoing health issues, was "overwhelmed with the separation situation," was going through financial hardship at the time, and was having disagreements with [REDACTED] about support payments and dividing their assets. These issues contributed to his actions (threatening calls and texts) toward P.F., which the Respondent characterized as an instinctual reaction occurring "out of a moment of rage."

d. Respondent testified that he knows he could have handled the situation with P.F. in a better way and regrets making the threatening calls and texts to him. He explained he opened the door to his home with the handgun in his hand, in a pointed position, because he didn't know it was the police at his door, and he was afraid it might have been P.F. coming to confront him due to the texts and calls. On cross-examination, he admitted he did not give any consideration that it could be someone other than P.F. at the door and that it was behavior which could have endangered the life of an innocent person.

e. He did not dispute that he told police he would have killed P.F. if P.F. had been the one at the door. However, he denied that he ever told P.F. directly that he was going to kill him. He reiterated that he was acting out of rage, should not have said those things, and needed to learn to make better choices on how to react when he is angry or under stress.

f. Regarding the charge of discharging a firearm in city limits, Respondent testified that he had drank a six-pack of beer that day and did, contrary to his statements to police, shoot his gun at his home before police arrived. When asked to confirm that his statement to police was incorrect that the noise was just fireworks, the Applicant equivocated stating, "there were some fireworks [being set off], so that wasn't a complete lie." He further admitted that

some of the shell casings in the yard would have been from discharging his gun that day at his home.

g. When asked why he had told the police he had not been firing his gun, the Respondent indicated that he panicked at the time. He also admitted his statement that “the shell casings that were found were from me going to the range and throwing them on the ground.” in his September 7, 2022, letter to the judge “was not 100% accurate.”

h. As part of his diversion, the Respondent was required to attend a gun safety program and perform community service. He fully complied with the terms of the diversion. He was not required to attend any type of anger management program or alcohol abuse program as part of the diversion. He testified that at one point he had what he characterized as a “mental breakdown” and began meeting weekly with a priest in Arkansas City. He also started attending church every week. He felt both helped him learn to make peace with what he had been through in his divorce, including learning to leave the anger he had behind him.

i. The Respondent’s divorce became final in October 2022. The Respondent remarried at some point and when he sold his insurance agency in Arkansas City in late September 2023, he briefly moved to Mexico where his new wife resides, then moved back to Salina in late 2023.

j. For reasons which were unexplained, [REDACTED] had also moved from Arkansas City back to Salina. [REDACTED] was living in a house owned by J.D., with Respondent’s youngest son, who was then 17.

#### 2024 Charges:

k. Respondent testified he learned from a cousin that J.D. was selling cocaine, was a “swinger,” and participated in orgies. Respondent became afraid that his youngest son was

using marijuana or other drugs. He began to suspect his son was getting drugs from J.D., so he called and texted J.D. to “call him out” and warn him not to sell drugs to his son. The Respondent generally admitted to making the calls and sending the texts detailed in the narrative of the Saline County Sheriff’s report, but indicated he believed he had only made one call and sent two text messages on two different occasions. He admitted texting J.D., saying “let’s throw down” (meaning fight). Respondent explained that he thought, “it would just teach [J.D.] a lesson. Take my anger out, you know what I mean. . . and he gets a message . . . not to get near my kid.”

l. The Respondent was asked what evidence he had to support the statement in his letter to the Department that J.D. was “a drug dealer, swinger and pedophile. I found out he was giving my youngest son drugs when he goes to their house.” He replied that he did not have any proof other than what a cousin had told him. Neither [REDACTED] nor Respondent’s son had confirmed any of the allegations.

m. When asked by the Presiding Officer why the Respondent had not reported J.D.’s alleged criminal activities to police, he said that he initiated three investigations against [REDACTED] with the Kansas Department for Children and Families. He also contacted the police multiple times, but they only did a welfare check on his son. Respondent insinuated in his testimony that the police department was prejudiced against him so would not follow up on any of his calls.

n. When asked if he had not learned from the 2022 matter that violence was not a way to handle such situations, the Respondent indicated the following:

I know. I understand what you’re saying. Apparently, I wasn’t done dealing [with issues] because I was upset, so I’ll be honest with you. I normally am a very calm person. . . . But the way all this turmoil came up . . . was very, very upsetting to me. And . . . when someone’s upset and things are not

going the right way, you're struggling, you're sick . . . [then] the cap blows off, you know, like the steamer. That's really the truth, what it boils down to . . . but now I have learned from it.

o. When asked if he was required to complete any type of anger management program in connection with his probation on the endangerment conviction, the Respondent indicated he was not required to do so, nor had he ever completed any type of anger management program on his own. However, he said he was considering looking for and participating in such a program.

p. When asked how the Department could be assured that he would not engage in this type of conduct again, recognizing that the two criminal matters involve similar threatening and aggressive conduct, Respondent testified that his [REDACTED] was the "common denominator" in both situations and that everything that happened was because of her. He indicated such situations would not be caused by her again because:

[N]umber one, I haven't talked to her in over two years. Okay, number two, I don't plan on talking to her at all. Number three, I learn[ed] my lesson . . .

I'm over that bad phase that I went through. . . I'm over that. I learned from it. . . Do I want to do it again? No, do I plan to do it again? No, I can just give you my word . . . I am seeking help, like I said. I can give you a promise. That's all that I can do. I mean, I can't predict the future.

q. Respondent has continued to go to church since relocating to Salina and occasionally meets with a pastor for guidance. He also attended therapy at a health center in Salina after his 2024 arrest. The health center staff diagnosed Respondent as being depressed. He attended that therapy once a week, for two months, and was prescribed anti-depressants which he did not like and quit taking.

r. During the hearing, Respondent related several family tragedies he had endured over the past year, including deaths of a brother, a nephew, and a cousin, as well as a car accident

his son was in, in which two of his son's friends were killed. While these were undeniably difficult situations for the Respondent, they all occurred after his arrest in February 2024, so did not bear on his conduct leading up to his arrest.

s. The Respondent also testified regarding stress caused by other financial difficulties he's encountered, including back taxes owed to the federal government, back taxes owed to Kansas, a judgment against him for a hospital bill, and a judgment against him for breaching an apartment lease agreement.

t. As to the failure to report his Saline County conviction to the Department, Respondent indicated that he did not know he had a duty to report convictions within 30 days (or if he had known it at one time, he had forgotten it), but his failure to report the conviction was an honest mistake. He believed that disclosing the conviction on his Application proved he wasn't trying to hide it from the Department.

Child Support Arrearage:

u. The Respondent was asked whether he had made the \$2,300 payment toward his child support arrearage in September 2024 as he indicated he was going to do in his letter to the Department. The Respondent said he did not have the money to make the payment. A concern was expressed that the Respondent had not tried to correct the representation made to the Department regarding the status of his child support arrearage or the payments he was supposed to make under the purported payment plan. The Respondent testified he will begin to make payments once he can obtain regular employment. Because of his many health problems he was unable to do many jobs, but had consistently been applying for a variety of jobs to find something that would provide regular income. He further testified

that as a result of the arrearage, his driver's license was restricted so as only allowing him to drive to and from work or to obtain groceries.<sup>12</sup>

v. When asked about social contributions he makes to his community or others, the Respondent testified about things he does to help his family, his neighbors and friends, including doing chores, running errands, and interpreting for people who are not fluent in English.

9. Respondent submitted several character letters from former insurance clients, family members, other insurance agents, and two from members of the clergy. Several of the letters commended the Respondent for being a dedicated and helpful insurance professional. Some commented that the Respondent's bilingual capability was an asset to the Hispanic residents of his community. Respondent's priest wrote that he had met the Respondent in August 2024 and that the Respondent had shared with him the problems with getting his insurance license renewed. The priest opined the Respondent "was overwhelmed with his divorce from a marriage of 22 years and all the problems it brought him personally and financially." The priest found him to be honest and sincere about what happened with his arrest and that he failed to advise the Department of his arrest because he "was overwhelmed with depression and honestly did not know that he had that responsibility."

Closing Statements:

10. In her closing argument the Department's counsel reiterated that Respondent's two criminal matters were very recent with both involving aggression and threats of physical violence and were "too serious and too recent for the Department to simply overlook." There was insufficient evidence to suggest the Respondent wouldn't again react in an angry, threatening or

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<sup>12</sup> This is consistent with K.S.A. 39-7-155(a) ("The secretary of revenue shall restrict a person's driving privileges pursuant to K.S.A. 8-255, and amendments thereto, upon request of the secretary for children and families if the secretary for children and families certifies, as provided in this section, that the person owes past due support . . .")



aggressive manner the next time he faced a challenging time in his life. There was also concern about the lack of truthfulness in statements the Respondent made to police and to the judge with regard to the 2022 Charges, which created a concern about his veracity. Finally, Department's counsel reiterated the concern that the Applicant was not aware of his responsibility under the insurance code to notify the Department of his conviction, as it is important to the Department that those licensed to sell insurance to Kansas citizens understand their obligations and responsibilities that accompany having such a license.

11. In his closing statement, the Respondent repeated comments he made numerous times throughout the hearing to the effect that his behavior in both the 2022 and 2024 incidents were exacerbated by his health issues, being overwhelmed with his separation and divorce, and suffering from depression. He knows that he made mistakes out of anger, but that he has learned from his mistakes, and it is in the past. He also reiterated that he complied with the terms of his diversion agreement in 2022 and his probation in 2024. He argued that if something were to happen again, it would have already happened, but nothing has. However, he also indicated he is strongly motivated to protect his family, his "blood," and suggested that, just like trying "to take a baby cub from a lion," he might act the same if something similar involving his family happened again. He also argued that he was a successful insurance agent without any issues for 16 years and it was only when problems arose with his wife that he got into trouble. He also noted that neither of the criminal matters occurred at work; rather they involved personal issues. He stated he was not a violent person but had just been going through a hard time. In summary, Respondent indicated that his circumstances necessitated his getting his license back so that he could work (and pay his debts), that he has acknowledged and paid for his mistakes, and that he is a greater asset to the citizens of Kansas with a license than without.

## **II. Applicable Law**

1. 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.
2. K.S.A. 40-4909 provides, in relevant part, that the Commissioner may deny an application for a producer's license if the Commissioner finds that the applicant or license holder has:
  - a. Violated ... [a]ny provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rules or regulations promulgated thereunder; (Subsection (a)(2)(A).)
  - b. Been convicted of a misdemeanor or felony. (Subsection (a)(6).)
3. Further, the Commissioner may deny a license application if the commissioner finds that the interests of an insurer or the insurable interests of the public are not properly served under such license. K.S.A. 40-4909(b).
4. In addition, K.S.A. 40-4905(f)(1)(A) provides that insurance producers licensed in Kansas shall report details of any convictions of a misdemeanor or felony to the commissioner within 30 calendar days of occurrence.
5. K.S.A. 40-4909(c)(1) sets forth factors the Commissioner shall consider when deciding whether to deny the application of an individual who has been convicted of a misdemeanor or felony. The factors to be considered are (1) applicant's age at the time of the conduct, (2) recency of the conduct, (3) reliability of the information concerning the conduct, (4) seriousness of the conduct, (5) factors underlying the conduct, (6) cumulative effect of the conduct or information, (7) evidence of rehabilitation, (8) applicant's social contributions since the conduct, (9) applicant's candor in the application process, and (10) materiality of any omissions or misrepresentations.

6. There is no guidance provided in the statute as to whether one or some of the factors should be given more weight than others.

7. The Commissioner has delegated the duty and obligation to weigh the factors set forth in K.S.A. 40-4909(c)(1) to the Presiding Officer.

### **III. Policy Reasons**

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

2. The Commissioner should license only those persons who she believes will serve the insurable interests of the public (K.S.A. 40-4909(b) and are trustworthy and competent (K.S.A. 40-241). To fulfill this charge, before issuing an insurance producer's license, the Commissioner should ensure the applicant has not committed any acts which justify the non-renewal or revocation of a license.

### **IV. Discussion**

1. At the outset, the Presiding Officer notes this matter involves two separate issues. One is the Respondent's failure to report his 2024 conviction to the Department. The second issue involves the 2022 and 2024 criminal charges.

2. While the Department takes seriously a licensee's failure to comply with a reporting requirement under the Kansas Insurance Code, the Department's witness testified the Department would have denied the license renewal application even if the Respondent had properly reported the Conviction to the Department. Thus, the focus of the remainder of the discussion in this order will be a review of the 2022 and 2024 criminal charges.

3. The Respondent was convicted of a misdemeanor charge in 2024. Thus, it is necessary to review the factors set forth in K.S.A. 40-4909 (c)(1).

4. The Respondent was not technically “convicted” of the misdemeanor in 2022 due to entering into a diversion agreement. However, the Respondent did engage in conduct which resulted in criminal charges. The Commissioner has determined that in considering whether the insurable interests of the public would be served by granting a license it is appropriate to consider the factors set forth in K.S.A. 40-4909(c)(1) when an applicant has recent conduct which resulted in criminal charges even though such charges may have been dismissed upon completion of a diversion agreement. It is further within the Commissioner’s discretion to do so. Therefore, the Presiding Officer will also address each of the factors set forth in K.S.A. 40-4909(c)(1) for the 2022 misdemeanor charge and the 2024 conviction.

5. One of the Presiding Officer's roles in these matters is to evaluate the credibility of the Respondent based on demeanor, forthrightness, consistency in testimony, and other factors. The Presiding Officer’s evaluation of the credibility of the Applicant plays a role in the review of each of the factors discussed below.

a. Applicant's age at the time of the conduct. Respondent was 40 years old at the time of the 2022 Charges and 42 years old when he was arrested in 2024. He was an adult, had been an insurance agent in Kansas since 2009, and had the experience and maturity to exercise self-control over and be responsible for his conduct. This factor weighs against the Respondent.

b. Recency of the conduct. The incident underlying the 2022 Charges occurred a little over two years prior to the Respondent submitting his Application, with the diversion for that matter ending approximately six months prior to the date of the Application. The conduct underlying 2024 Charges occurred less than three months before the Application was submitted. He was on probation for this charge when the Application was submitted. However, the probation had terminated by the time of the hearing. The Presiding Officer

believes it was understandable for the Department to determine, based on the close proximity in time between the two incidents, and that the last one occurred only a year prior to the hearing, that insufficient time had elapsed since the occurrence of these matters to provide any assurance to the Commissioner that the Respondent would not engage in similar conduct in the future. This factor weighs heavily against the Respondent.

c. Reliability of the information concerning the conduct. As is unfortunately not uncommon where licensees have prior criminal charges or convictions, the Respondent here attempted to minimize the seriousness of the incidents involved. Moreover, he took little responsibility for his conduct and instead repeatedly blamed his conduct on circumstances involving men associating with his [REDACTED]. At the hearing the Respondent stated that unlike when he was arrested both times and lied to police, he was going to be truthful during the hearing. He proceeded to admit to numerous misstatements he had previously made to police and others regarding the 2022 and 2024 incidents. All of these cast doubt on Applicant's veracity. It isn't necessary to detail all inconsistencies noted between Respondent's testimony and other evidence introduced at the hearing. The following is a sufficient sample to support the Presiding Officer's concerns regarding the Respondent's credibility and the lack of reliability of information he provided:

- He was untruthful to police in 2022 about not shooting his gun at his home and that the shell casings in his yard were solely from throwing casings there after practicing at a shooting range.
- He testified that telling police the sound of gunshots was due to fireworks "wasn't a complete lie" because there were some fireworks that evening.
- He admitted he repeated the falsehood about the shell casings in a letter to the judge assigned to his criminal matter. However, he again

tried to minimize the misstatement by saying it simply wasn't "100% accurate."

- Respondent disputed evidence that he had called P.F. and directly threatened to kill him. This is troubling as there was ample evidence that the Respondent told police repeatedly that he wanted to kill P.F. and would have shot and killed P.F. if he had come to Respondent's home. Whether he directly told P.F. he was going to kill him is immaterial considering the overwhelming weight of other evidence that it was his intent to do so.
- In the March 2023 written statement regarding the 2022 charges, Respondent blames the situation on P.F. trying to extort [REDACTED]. At the hearing the Respondent indicated that in hindsight his wife may have told Respondent that "to set him up."
- In the June 2024 written statement regarding the 2024 charge, the Respondent alleged J.D. "was a drug dealer, swinger and pedophile. . . [and] was giving my youngest son drugs when he goes to their house. He admitted at the hearing he had no proof to support these allegations; they were based on hearsay and the Applicant's suspicions that his son was using drugs.
- In the same statement he represented to the Department he had an agreement to pay \$2,300 on his child support arrearage by September 2, 2024. He did not, in fact, make that payment and further did not attempt to correct this misrepresentation to the Department.

Finally, with regard to this factor, the Presiding Officer notes that, while Respondent repeatedly indicated that he was not lying in his testimony at the hearing, when he was pressed to explain the variances in his descriptions of what happened and those detailed in the police reports, the Respondent testified at one point that, "[t]here's three sides to the story, my side, what they're saying, *and the truth as well.*" Such inconsistencies and comments suggest to the Presiding Officer that the Respondent was inclined to say in his testimony what he thought would put him in the best position to have the Summary Order overturned, whether or not such testimony was completely truthful and forthright. The testimony establishing that the Respondent repeatedly made less than truthful

statements to police, a judge, and in his statements to the Department in connection with his Application is not changed by claiming to tell the truth during the hearing. This factor weighs against Respondent.

d. Seriousness of the conduct. All criminal charges involving acts of aggressive and threatening behavior toward others are considered serious by the Commissioner. Certainly, such charges which rise to the level of felony criminal conduct cause a heightened level of concern. The Respondent was initially charged with felonies in both criminal cases which further underscores the serious nature of the conduct. One involved the Respondent being armed with a firearm and stating he wanted to kill P.F. and if P.F. had come to his home that night he would have shot and killed him. (With regard to this incident, it should be noted that Respondent's conduct of discharging his firearm in a populated neighborhood after having consumed quantities of alcohol was reckless at best. Respondent is fortunate that when he opened his door with a gun drawn and pointed out at officers there was not a more tragic ending.) The second felony charge involved wanting to fight someone to "teach him a lesson." While both these charges were later reduced to misdemeanors, the common underlying conduct remained the same. The misdemeanor charge which was the subject of the 2022 diversion (unlawful discharge of a firearm) and the 2024 conviction (endangerment) similarly involve dangerous conduct which could cause harm to others. The seriousness of both incidents is underscored by the issuance of orders that Respondent have no contact with the victims. There was also testimony that an order was in place for the Respondent to have no contact with [REDACTED] This factor weighs heavily against Respondent.

e. Factors underlying the conduct and cumulative effect of the conduct. Respondent's testimony indicated he was undergoing considerable turmoil in his life, including medical and financial difficulties, and his separation from [REDACTED] which overwhelmed him and led to depression. It is not difficult to understand that the combination of these issues might have contributed to the Respondent's feelings of anger to the perceived affront to his [REDACTED] by P.F. in 2022, and his similar feelings of anger when he suspected his son might be obtaining drugs from J.D. However, Respondent's reactions were extreme and demonstrated a lack of ability to control his anger and to exhibit self-control in such situations. Regardless of the underlying reasons which may have contributed to Respondent being overwhelmed and depressed, his aggressive, threatening and dangerous actions taken in anger were beyond anything which could be considered reasonable or tolerable for a licensed insurance agent who would have contact with the public. This factor weighs against Respondent.

f. Evidence of rehabilitation. Respondent repeatedly stated in his testimony and statements regarding the 2022 events that he had made a mistake and had learned from it. That clearly did not prove to be the case considering the lapse of mere months between the end of his diversion on the 2022 charges and when he was arrested on the 2024 charges. This factor weighs against Respondent.

It is further troubling to the Presiding Officer that the Applicant didn't truly take responsibility for what happened, but instead maintained he was the victim of other persons and circumstances. He continued to blame his problems on situations involving his ex-wife, stating she was "the common denominator," and since he now had limited contact with her, situations involving her should not cause him to have future episodes of threatening or aggressive behavior. In addition, he seemed not to understand why the 2022



and 2024 incidents should be a problem with his licensing application, as the incidents “were in the past,” and that he had successfully completed diversion and his probation. This, however, ignores the reality that he did not apparently learn anything from the 2022 incident as evidenced by his conduct a short time later in 2024.

It could be argued that the Respondent had made efforts to deal with his underlying anger issues by meeting regularly with his priest, attending church more regularly, and resolving to put the situation “in God’s hands.” These are positive steps which may contribute to establishing the Respondent’s rehabilitation in the future, but the Presiding Officer is not convinced at this time that the Respondent will not resort to similar conduct when stressed or angered by a situation involving his family. The Respondent also indicated an anger management course might be beneficial and he was going to endeavor to engage in a program of that nature. It would seem prudent for the Respondent to reapply for a license after he has actually participated in a program and enough time has passed to demonstrate that he has learned strategies to deal with the type of issues which led to his criminal charges. This factor weighs heavily against Respondent.

g. Applicant's social contributions since the conduct. While Respondent expressed a sincere desire to return to his insurance practice. The testimony provided by the Respondent about his social contributions consisted primarily of favors and help he provides for family members and friends. The presiding officer considers this factor to be neutral.

h. Applicant's candor in the application process. This factor has been alluded to in the discussion of other factors above. In summary, he was not truthful in statements he provided to police, to a judge, and in statements provided to the Department in connection

with his Application. Conflicting statements and other dissembling at the hearing did not serve to convince the Presiding Officer that his testimony was credible. The Respondent's continuation in blaming his conduct on things perceived to have been done to him by others, undermined his statements that he was not going to lie and was going to be honest during the hearing. Even his statements that he had simply made mistakes "out of anger" but had learned from those mistakes could not be taken seriously when the Respondent committed similar aggressive and threatening acts in a period of less than two years, with the 2024 incident occurring less than six months after completing the diversion program for the 2022 incident. This factor weighs against Respondent.

i. Materiality of any omissions or misrepresentations. As noted above, there were omissions and misrepresentations in the materials provided by the Respondent in connection with his application. Some of the testimony he provided at the hearing could be taken as omitting some material information, despite the Respondent's assurances of being truthful during the hearing. For example, he admitted he had no proof or support for the statement to the Department that the underlying cause of the 2024 incident was that "[REDACTED] is hanging out with [J.D.] who is a drug dealer, swinger and pedophile. I found out he was giving my youngest son drugs when he goes to their house." He admitted this was based on unsubstantial information given to him by a cousin. Another example is his misrepresentation to the Department that he was to make a substantial payment on his child support arrearage, but he did not, in fact, make that payment nor did he attempt to correct this representation. This factor weighs against Respondent.

## **VII. Conclusions of Law**

1. The Commissioner has jurisdiction over the Respondent as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
2. The Assistant Commissioner of Insurance, as the Presiding Officer, is acting on behalf of the Commissioner of Insurance as the agency head and is empowered to render a Final Order.
3. The factors relevant to consideration of the Respondent's misdemeanor conviction and diversion are discussed above. The factors against the Respondent far outweigh any in his favor.
6. In conclusion, the Presiding Officer finds that, given the recency and serious nature of the Respondent's criminal conduct in 2022 and 2024, and other matters discussed herein, the evidence supports the Department's Summary Order to revoke and refuse to renew the Respondent's insurance producer's license under K.S.A. 40-4909(a)(6) for his criminal conviction less and one year ago, and other criminal conduct in 2022 (based upon the evaluation of the K.S.A. 40-4909(c)(1) factors discussed above).
7. The Presiding Officer did not otherwise find reason to question the Department's determination that the insurable interests of the public would not be served in granting the Applicant a license at this time.

#### **FINDING AND ORDER**

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT** the Summary Order of revocation and non-renewal of the Respondent's license is **AFFIRMED.**

**IT IS FURTHER ORDERED THAT,** pursuant to K.S.A. 40-4909(j)(2), the Applicant **SHALL NOT APPLY** for a license until after **TWO YEARS** from the date of this Order.

IT IS SO ORDERED THIS 10<sup>th</sup> DAY OF MARCH 2025, IN THE CITY OF TOPEKA,  
COUNTY OF SHAWNEE, STATE OF KANSAS.



VICKI SCHMIDT  
COMMISSIONER OF INSURANCE

BY: Barbara W. Rankin  
Barbara W. Rankin  
Assistant Commissioner  
Presiding Officer

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**NOTICE OF RIGHT SEEK TO SEEK RECONSIDERATION**

Pursuant to K.S.A. 77-529(a)(1), the parties are notified that they may, within 15 days after service of this Final Order (plus three (3) days for service by mail or electronically), 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 either party files a petition for reconsideration, the Agency Officer to be served on behalf of the Kansas Department of Insurance pursuant to K.S.A. 77-531, is:

Steve Karrer  
General Counsel  
Kansas Department of Insurance  
1300 SW Arrowhead Road  
Topeka, KS 66604

**NOTICE OF RIGHT TO SEEK JUDICIAL REVIEW**

Pursuant to K.S.A. 77-601 *et seq.*, the parties are notified that they are 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 such a petition for judicial review is filed, the Agency Officer to be served on behalf of the Kansas Department of Insurance pursuant to K.S.A. 77-615, is:

Steve Karrer  
General Counsel  
Kansas Department of Insurance  
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 10<sup>th</sup> day of March, 2025, by causing the same to be placed in the United States Mail, first class postage prepaid and properly addressed to the following:

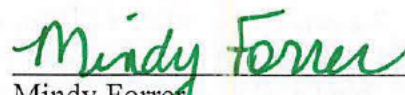
Juan Torres  
[REDACTED]  
Salina, KS 67401  
[REDACTED]@yahoo.com

*Respondent*

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

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

*Counsel for the Kansas Department of Insurance*

  
Mindy Forrer  
Legal Assistant