

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

<b>In the Matter of the Refusal to Renew and</b>	)	
<b>Revocation of the Kansas Resident</b>	)	
<b>Insurance Producer License</b>	)	<b>Docket No. 110100</b>
<b>of GRADY WALTRIP</b>	)	
<b>NPN # 19968492</b>	)	

**FINAL ORDER**

**Pursuant to K.S.A. 40-4905, K.S.A. 40-4909, and K.S.A. 77-501 et seq.**

The Presiding Officer called this matter for hearing on February 26, 2025. Grady Waltrip (“Respondent”) appeared in person. The Kansas Department of Insurance (“Department”) appeared by and through counsel, Kimberly Davenport Megrail, Senior Attorney. Respondent appeared to present mitigating evidence for consideration by the Presiding Officer. The matter at issue is the Department’s refusal to renew and revocation of the Respondent’s resident insurance producer license pursuant to a Summary Order issued September 20, 2024 (“Summary Order”).

**Having reviewed the Summary Order refusing to renew and revoking the Respondent’s resident insurance producer license, and having considered the testimony, exhibits, and arguments of the parties, the Commissioner finds and determines that the Department’s Summary Order should be AFFIRMED.**

**I. Findings of Fact**

1. The Respondent was first licensed as a Kansas resident insurance producer on July 2, 2021.
2. Respondent’s license expired July 31, 2024.
3. Respondent submitted his renewal Application on August 1, 2024 (“Application”).

4. The Department refused to renew and revoked the Respondent's license by the Summary Order issued September 20, 2024.

5. Respondent timely filed a request for a hearing.

6. The following relevant facts regarding the Summary Order were established at the hearing by documents introduced into evidence along with testimony by the Department's Director of Licensing ("Department's Witness").

a. The Application was submitted electronically on August 1, 2024, through the National Insurance Producer Registry ("NIPR").

b. Applicant answered "Yes" to Background Question 1a on the Application which asks:

Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?<sup>1</sup>

c. The Applicant submitted the required documents, citation, police reports, and a diversion agreement for a charge of misdemeanor theft (shoplifting) occurring on February 17, 2024, Shawnee Municipal Court, Shawnee, Kansas Municipal Court, case no.

██████████

d. The narrative in the police report indicated a Walmart loss prevention officer ("LPO") reported to local police that he observed the Respondent take packs of sports trading cards (and other related merchandise) then walk to other areas of the store where he placed them in his pockets and under his clothes. After the Respondent walked past the last point of sale as he was exiting the store, he was confronted by the LPO and escorted to a security office to await the police. The items taken included two small packs of NFL

---

<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.

trading cards, a large box of NBA trading cards and two other items of merchandise totaling \$70.83. The Shawnee Police Officer's narrative includes the following information:

[Respondent] informed me he entered the store to get trading cards as he has recently fell into the hobby. Upon doing so, he observed one large pack (\$49.97) which he believed to be the best value for his money. [Respondent] stated his initial intention coming in the store was to buy a smaller pack; however, upon finding the large pack he decided to try to take it instead. I asked if upon making the decision to take the larger pack did he decide to take the other items as well to which [Respondent] stated, "Um basically." [Respondent] further explained that due to recent issues with work, his recent paycheck was smaller than expected and he has been having money issues. I asked if he had ever stolen cards before to which he stated no.

e. Respondent was charged with one count of misdemeanor theft. The charge was resolved by a Criminal Diversion Agreement entered on May 21, 2024 ("Diversion"), which was for a term of twelve months. Among other terms and conditions, respondent was required to pay certain costs and fees,<sup>2</sup> and to attend a one-day anti-theft class. He was also prohibited from entering the Walmart store during the pendency of the Diversion.

f. In the Respondent's written statement about the incident submitted with his Application, he provided the following:

I was in Walmart and I was stopped by their staff at the door for attempting to exit the building without paying for playing cards. I went into the store with no ill intent, but because I was financially struggling I decided to attempt taking some playing cards rather than pay for them. [ ] The result of this incident had me facing conviction of a Class C misdemeanor. Thankfully, I have no criminal record and no prior convictions of any type. Because of this, I was offered to enroll in the KS diversion program which I [ ] started on May 21<sup>st</sup> 2024. Once the 12 month Diversion agreement period is over . . . the case will be dropped entirely. [ ] This incident was out of character for me and is something I quickly learned a critical life lesson from.

---

<sup>2</sup> These included court costs, diversion fees, and costs for any random drug or alcohol testing performed during the term of the diversion agreement.

g. The Department's Witness testified that the Department's statutory role in licensing decisions is to ensure that the insurable interests of the public are protected, and that applicants are trustworthy and competent before issuing an insurance producer license. When an applicant has prior convictions, or avoided conviction of criminal charges by entering into a pretrial diversion or deferred adjudication program, the Department utilizes various statutory factors<sup>3</sup> to determine whether to deny or approve a license.

h. The Department's Witness described the review process for an applicant who discloses a criminal matter on an application. It is initially reviewed by licensing division staff, then reviewed by Legal Division staff, and finally, reviewed and acted upon by a Committee comprised of senior-level employees from different areas of the Department. She further testified that in general, the Department prefers to see the passage of five years without other legal incidents after the occurrence of a conviction or diversion agreement resulting from misdemeanor charges. However, this is a guideline, and the Committee applies the totality of the circumstances in considering all the applicable statutory factors.

i. In the Respondent's matter, the factors which primarily contributed to the Committee's decision were the seriousness and recency of the conduct. The Department takes seriously matters involving theft as such demonstrates a person's dishonesty and lack of trustworthiness regardless of whether the theft occurred in connection with business matters or the person's personal life. Licensees are held to a high standard and must be trustworthy because, among other things, they can have access to consumers' confidential financial information. An act of theft gives rise to the concern that if an agent experiences financial difficulties, the agent might be tempted to misuse such confidential information

---

<sup>3</sup> See K.S.A. 40-4909(c)(1)

to his or her own gain or perhaps misappropriate client funds. The Department's concern would not be alleviated where an employer has protocols in place to protect misappropriation of clients' information or funds given that a licensee could change agencies or positions where such protocols are less strict or do not exist.

j. As to recency, the theft occurred less than six (6) months prior to the submission of Respondent's Application. In addition, the Diversion had begun less than 3 months prior to submitting the Application. The Department's Witness indicated that in matters involving dishonest conduct, such a theft, the Department would want to see a significant passage of time from that occurrence to have an assurance that a licensee would not be inclined to repeat such behavior.

k. In November 2024, the Respondent filed with the Shawnee Municipal Court a request for an early discharge from his Diversion, stating:

I have made improvements in my mental, physical, and emotional health. I have shown that I am committed to change, and my progress supports the fact that I have learned from my past mistakes and have no intention of repeating them.

With reference to this matter, the Respondent further stated:

My past mistake which led me into entering diversion has negatively impacted my career. When applying for my Kansas insurance license renewal, I disclosed entering into this diversion agreement which led the [Department] to reject my [Application]. I have since made an appeal to have an official hearing . . . and early release from my diversion agreement would give me the best chance possible to successfully overturn [the Department's] initial decision, allowing me to return to my previous job role."

The court granted the request for early termination by order dated December 20, 2024.

l. While at the time of its review the Committee did not have available to it the court's order granting early termination of the Diversion or other evidence that he had completed

all conditions of the diversion agreement, the Department's Witness indicated, that while these were positive steps, it would not have changed the Committee's decision due to the serious nature of the offense and its recency.

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

a. After graduating from college and obtaining his insurance license in 2021, the Respondent began working at an insurance agency ("Agency") affiliated with a national insurance company ("Company"). The Respondent testified he always wanted to pursue a career in insurance. The Agency he works for was started by his grandfather and is now owned by his father.

b. His compensation was a combination of a monthly salary and commissions on insurance sales. He said the salary "was well short of covering just monthly expenses." He indicated it takes some time to understand the insurance products, learn to help insurance clients select the coverages that meet their needs, and build a stable client base. He said after three years of selling insurance products he felt he "was at the point [ ] where I was really helping people." His insurance sales were such that he was receiving more income from commissions, but it wasn't a consistent amount due to some months meeting his sales goals while other months not doing so.

c. He said at the time of the shoplifting incident it was "an all-time low for commissions" for him resulting in him having trouble paying bills and encountering other financial difficulties. He later attributed the decline in his commission income to "a handful of vacations [he] went on late in the year in 2023," which resulted in him not meeting his

sales goals for a while and consequently he became ineligible (under the Agency's practices) to be in the rotation for handling incoming calls from potential clients seeking information or quotes on policies, which Respondent indicated is where a majority of insurance sales originate.

d. The Respondent testified that prior to the theft, he had a falling out with a "friend group" and was feeling secluded. That, coupled with his financial issues, left him "feeling trapped." He had gotten into the hobby of collecting sports trading cards and watching more NBA basketball games. Due to his feelings of seclusion and being trapped he turned to learning more about the market for buying and selling sports trading cards which he said "was an entertaining thing" for him. He considered the possibility of selling trading cards to make money to ease his financial problems.

e. A couple of days prior to the shoplifting incident, the Respondent went to Walmart to buy some groceries and at the same time purchased two small packs of trading cards. He decided to go back to Walmart the following Saturday to "pick up some more [small] packs." He saw a large box containing many cards, which cost more than he intended to spend that day but was a better deal. He also selected two small packs of trading cards and some card sleeves. The cards were at a display located in the front of the store near an entrance. After selecting his merchandise, he then walked to other areas of the store to conceal the items. He testified:

And just in my head, I had contemplated the cost of it, and then just right there, kind of made a decision to see if, you know, I could potentially get those out of the store to help with my monetary issues. And so once I made that decision, attempted to leave the store, and then was stopped and right away. . . . But a spur of the moment, last resort, kind of feeling trapped was the reason.

f. He initially was only going to conceal the large box of trading cards and planned to pay for the small packs and sleeves, but testified, “In my brain at the time, I didn’t want to try and pay for part and then take the other ones, so I just decided to just try and take whatever I had at the moment.” He told the Presiding Officer that walking to another part of the store to conceal the items in his clothing to steal them was intentional. He further indicated he was not under the influence of drugs or alcohol when he went to Walmart.

g. The Respondent was very remorseful after being detained by the LPO and cooperated fully with the police officer. He was issued a citation with a date to appear in court on the shoplifting charge. He testified that after that he “[didn’t] recall much besides just going home and being quite emotional.”

h. He testified he was so upset about his arrest that he used the experience to refocus his energy on work in an effort to “overcome this incident.” He also explained that the charges and fees associated with the Diversion made his financial situation even more difficult, so he “just worked as much as I could with trying to make up for the additional [financial] hit I just took.” As a result, he experienced his best sales months since joining the Agency.

i. Respondent initially did not report his arrest and Diversion to anyone at the Agency, including his father, his sales manager, or the HR director. However, about the time he submitted his license renewal application, he informed his father about the incident.<sup>4</sup>

j. The testimony was unclear as to why the Respondent didn’t submit his license renewal application until August 1, 2024, when the renewal deadline for his license was July 31, 2024. However, because it was not submitted by the deadline, the Respondent’s license expired July 31, 2024. At some point, when it became evident to the Agency that the

---

<sup>4</sup> The theft arrest occurred on February 17, 2024, but he didn’t inform his father of the incident until shortly before his renewal application was submitted on August 1, 2024.



Respondent's license renewal was on hold,<sup>5</sup> his employer moved him to a marketing position (which did not require he be licensed) and revoked his credentials to access computer systems and databases containing information on clients and policies. His clients were assigned to other producers at the Agency.

k. With regard to the anti-theft course he was required to take as part of his diversion, the Respondent indicated he found it helpful to understand the larger impact that theft and shoplifting have on even major retailers, and that it reinforced to him the ethical responsibilities of those working in the insurance industry, stating:

Well, it reminded me of, like the ethics courses we take for doing the insurance just, you know, having that right mindset, doing the right thing when no one's, you know, looking. So, I've always had good morals and you know, I don't like to cheat anyone. I don't like to do anything like that. And so the course itself was kind of reinforced that, in my mind, you know that the things you do have an effect and it's not just a small thing, you know, it showed in the course, you know, how that can snowball from just one or two things happening, which showed to be true. But I'd say mostly it was just reinforcing that idea of to do the right thing when no one's watching.

l. On cross-examination, the Respondent testified that he knew stealing is wrong, but did not know that it would affect his insurance career in the way that it has. Although he stated he considered himself to be a moral person, he conceded that stealing is not a moral thing to do. He further agreed that being trustworthy is an important quality for an insurance producer.

m. When asked how the Department could be assured that he wouldn't steal again if he found himself in another difficult financial situation, the Respondent first indicated that the Agency has in place processes and protocols ("guardrails") to actively protect against an

---

<sup>5</sup> It is unclear whether this occurred immediately after his license was suspended or when the Department's Summary Order was issued in September.

employee's misappropriation of clients' personal or financial information. When pressed on what *he* would do, the Respondent stated:

I will basically just use what I've learned over the last year to continue what I've been doing this last year, which is not doing the wrong thing. It's just as simple as doing the right thing. I've never stolen anyone's information at work, it's never been a thought. I do not intend to bring any kind of energy like that of untrustworthiness to the office.

n. He further testified that if he ever found himself in a difficult financial situation again, he would ask his father or someone else for help rather than try to deal with it himself.

o. The Respondent also testified that two weeks prior to the hearing, he commenced weekly therapy sessions with a psychiatrist, which he plans to continue. His sessions with the therapist have been helpful him to discuss what he has been through the past year and how to move forward in his life.

p. When asked about his social contributions following the charge, the Respondent testified that he has volunteered for various activities with the Boys and Girls Club.

8. The Applicant's father, "T.W.," and the sales director for the Agency, "C.H.," testified in person on behalf of the Respondent and provided the following relevant testimony.

a. T.W. has been an employee and licensed producer for the Company for twenty-eight (28) years. His Agency operations consist of three locations he owns with a total of forty employees.

b. He testified that in previous positions with the Company, he had management responsibilities for nine states with three hundred (300) agents, and had experience with all aspects of agent training, hiring, oversight, and adherence to policies. With his Agency, he takes business "extremely seriously," "runs a tight ship," and has "multiple layers of guardrails ... to protect our customers." He stated he would not expose the Agency, its

employees, and their families to anything that would cause harm to the Agency's business, its customers, or its employees.

c. He also testified regarding the guardrails which have been put in place both by the Company and at the Agency to protect client information, which includes an extensive set of procedures designed to prevent fraud or defalcation by employees. He provided considerable detail in his testimony about the functionality and capabilities of those guardrails, which is not necessary to reiterate in detail in this Order.<sup>6</sup>

d. In a letter sent to the Department earlier, T.W. stated, "[a]s related to [Respondent] specifically, we have several measures in place to ensure there would be zero possibility of impropriety." In response to questioning by Department's Counsel, T.W. conceded you can't guarantee a zero chance of anything happening or not happening but stated there would be a "zero chance of [an impropriety] being undetected," meaning a "zero chance of getting away with it," because of how the Agency monitors phone calls, keystrokes, daily remittances of premiums, and has cameras in the office. He conceded there isn't anything to prevent the Respondent from going to work for another agency where perhaps not as many precautions were in place to protect against an act of theft or dishonesty by an agent. T.W. also agreed that while trustworthiness is an important quality for an insurance producer to have, "the

---

<sup>6</sup> These included, *inter alia*, a "sales diagnostic" tool which monitors and picks up certain key words in employee telephone conversations; the recording of such conversation and periodic review of the same depending on the situation such as a new employee; tight controls over training and development of agents; a policy against taking any money/currency from customers, soon to include any paper checks; moving to a system where customers input their information for electronic (ACH) withdrawals from bank accounts for payment of premiums; not obtaining the three digit security code for credit card payments; a system which enables the Agency to tell if customer information is inputted contemporaneously or written down to save for later input into the Agency's or Company's data systems; monitoring keystrokes on employee computers; security cameras in the office; prohibition on agents using personal phones for work-related matters and customer communications; installation of an app on agents' business cell phones to restrict or monitor the texting of personal client information, shredding documents containing customer information; and daily remittances of all policy premiums. In addition, the Company requires all agents appointed with it to be fingerprinted and have background checks performed.

environment that a licensed person might be in is important to take into the same amount of consideration.”

e. T.W. testified that the Agency moved the Respondent from his sales position and restricted his access to Agency technology systems when the Respondent’s license expired at the end of July 2024, and it appeared that his license renewal was delayed. T.W. explained that without an active license, the Respondent would not be able to bind a policy for a customer with an insurance company, and he would not put his Agency or its employees at risk by allowing an unlicensed person to engage in insurance sales. Respondent was apparently not otherwise disciplined, although there was testimony that his inability to earn commissions was a “harsh punishment” because the loss of commissions results in a “severe financial penalty.”

f. T.W. testified that when an employee is charged with a crime, including theft, the Agency “handles each case individually” based on the circumstances. They are stricter when an employee demonstrates a pattern of poor judgment or illegal conduct (such as getting multiple arrests for DUIs) and the agent isn’t remorseful or doesn’t seek help to avoid further arrests. He added that there is zero tolerance for an agent engaging “in any kind of infringement with one of our customers.” However, he testified situations “that happen outside of [the Agency] that [have] zero to do with our customers” are handled based on input from the Company and the discernment of the Agency’s leadership team. He indicated that if there is an arrest or charge that is “something that’s explainable and we feel like it’s not going to be repeated,” and wouldn’t interfere with the ability of the agent to be licensed, it was unlikely the situation would result in an agent’s termination.

g. T.W. characterized the Respondent's theft as a "knucklehead move," which he did not believe would recur. He testified that Respondent's work ethic, performance, and reliability were very good, and there had never been any customer complaints involving him. He further testified that the Respondent was part of the Agency's long term business plans, as they intended to put the Respondent through training in all aspects of running the Agency over the next several years.

h. C.H., who also testified on Respondent's behalf, has been an agent for the Company for twenty years and had an agency of his own for fifteen years. He has known T.W. for approximately 15 years and two years ago he sold his agency to T.W. and began his current role as sales director for the Agency. He testified as follows:

If I didn't believe in [Respondent] I wouldn't have any problem telling T.W. I don't agree [keeping him as an agent]. I think what [Respondent] did was wrong. But I don't believe that's truly [the Respondent]. I really don't. I've fired many people [over] the years, employees that I felt weren't ethical. I just don't think [Respondent] falls into that category. Do I agree with what he did? Absolutely not. Do I think it was a selfish kind of lack of judgment error? Yes, I do. Would I trust him with any of my clients? Like in a heartbeat. [ ] I just think there is no bigger punishment that he could get than what's he's already gone through. [I believe] he does deserve a second chance, and this is financially, a big deal for him. And, like I said, I would trust any of my clients with [Respondent] with any of their personal information. I don't think it wouldn't even cross [Respondent's] mind to do anything like [misappropriating client information].

i. On cross-examination, C.H. testified that Respondent was the last person he would have expected to shoplift something. He also agreed that shoplifting is not an ethical thing to do.

9. The Respondent submitted character letters including one from his long-time girlfriend who characterized the Respondent as a trustworthy individual who had "a momentary lapse in judgment, nothing more [and] has been devastated by his actions and is remorseful." Another from his college

roommate and co-worker similarly characterized Respondent as a trustworthy and mature person, that he was surprised when he learned about the shoplifting incident, and that “his actions that day do not portray who [Respondent] is.” He further indicated the Respondent was devastated when he lost his insurance license, but “I know he has learned from his mistakes . . . [and] the event that occurred will never happen again.” Both also favorably described the Respondent’s work ethic and expressed the opinion that he is a good insurance agent and an asset to the Agency.

10. In her closing statement, the Department’s Counsel requested the Presiding Officer uphold the Department Summary Order, highlighting that protecting the insurable interests of the public are paramount and a person who has committed theft or other act of untrustworthiness strikes at the core of that concern. Even if Respondent’s conduct was a “one off,” the Department could not be assured, without more time elapsing since the incident, that Respondent won’t have a similar lapse of judgment in the future. This is a particular concern given that he would likely have access to customers’ confidential personal and financial information, even in view of the guardrails in place at the Agency. The impulsive nature of Respondent’s conduct further concerned the Department given that the theft did not involve items which might be considered necessities. In the Department’s view, the Respondent’s taking responsibility for the theft and completing the theft course were positive mitigating factors but were outweighed by the seriousness and recency of the shoplifting incident.

11. In his closing comments, the Respondent again expressed his remorse over the incident, indicated that he has learned from his experience, that he knows that what he did was wrong and that he will not repeat it. He reiterated his desire to continue his insurance career.

## **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. The Commissioner may deny an application, or revoke or refuse renewal of a license 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).
3. Further, K.S.A. 40-241 provides the Commissioner need only issue a license if he or she “finds that the individual applicant is *trustworthy*, competent and has satisfactorily completed the [appropriate licensing] examination ...” (emphasis added).
4. 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, or otherwise guilty of criminal conduct, or to revoke or refuse renewal of a license.<sup>7</sup>
5. There is no guidance provided in the statute as to whether one or some of the factors should be given more weight than others.
6. 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.

---

<sup>7</sup> 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. The factors are discussed in detail below under the Discussion section in the Order.

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. The Respondent was not technically "convicted" of the theft charge due to entering into the Diversion. However, the Respondent did engage in conduct which resulted in a serious criminal charge. The Commissioner has determined that in considering whether the insurable interests of the public would be served by granting a license, or revoking or non-renewing it, 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 address each of the factors set forth in K.S.A. 40-4909(c)(1) for the Respondent's diversion.

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

a. Applicant's age at the time of the conduct. Respondent was 25 years old at the time of the theft. He was a college graduate and had been a licensed insurance agent for two and a half years when the shoplifting incident occurred. As such, he was a mature adult, capable of making prudent decisions, exercising self-control, understanding that shoplifting is illegal, and being responsible for his conduct. This factor weighs against the Applicant.



b. Recency of the conduct. The theft was committed less than six (6) months prior to the submission of his Application. Further, the original term of the Diversion was for twelve months, so at the time of his Application he had approximately ten months remaining in the program. While his Diversion was ended early, the fact remains that the shoplifting incident occurred only one year prior to the hearing on his license revocation. The Presiding Officer concurs with the Department's position that insufficient time has passed since the conduct to provide assurance to the Commissioner that the Respondent would not have a similar lapse in judgment and be tempted to engage in such conduct again. This factor weighs against the Applicant.

c. Reliability of the information concerning the conduct. To his credit, the Respondent disclosed the criminal charge and Diversion in his application materials. The Respondent did not deny to police that he had intended to steal the trading cards. At the hearing, the Respondent did not dispute the details of the theft and his comments to police as set forth in the narrative of the police report. This factor weighs in Respondent's favor.

d. Seriousness of the conduct. Any kind of theft inherently demonstrates dishonesty and untrustworthiness. The Commissioner considers criminal conduct involving dishonesty, such as the shoplifting incident involved here, to be egregious conduct, particularly when the person involved is an insurance agent or wants to be licensed as an insurance agent. Whether the act is one of impulse, opportunity, desperation, or a momentary lack of judgment, it cannot be condoned, particularly when done by a person who, if allowed to continue to be licensed, is entrusted with protecting the financial interests of customers and clients.

It is immaterial if the conduct did not involve an insurance client or otherwise did not occur in connection with conducting the business of insurance. It is similarly immaterial if the licensee works in an environment where there are processes and procedures in place to protect against an agent misappropriating client financial information or funds. Such guardrails are prudent for agencies and companies to have in place; however, they are not infallible and do not change the fundamental underlying concern about whether the person wanting to be licensed can be trusted to not steal again, whether from an insurance client or a third party (such as shoplifting from a store). This factor weighs heavily against the Respondent.

e. Factors underlying the conduct. The Respondent suggested his financial struggles and other factors (feeling secluded and trapped) influenced him at the time of the shoplifting incident. He described his recent interest in sports trading cards as a “hobby” to police, and thought he could sell some cards to make money to ease his financial difficulties. That said, the uncontroverted testimony and other evidence established the Respondent went to Walmart intending to purchase trading cards. It was only after he saw the larger box of cards, the cost for which apparently exceeded what he intended or could afford to spend that day, that he made a “spur of the moment” decision to take the large box as well as smaller cards packs and other items without paying for them. He intentionally walked to other parts of the store to conceal the items in his clothes so he could steal them. His conduct demonstrated an impulsive lapse in judgment and inability to resist temptation without any thought given to the consequences if he were caught. It is difficult to understand how his financial difficulties and other factors in any way mitigate the shoplifting incident, when the items stolen were for a “hobby” and which he had no

experience in selling. Under these circumstances, it is also difficult to find credible or persuasive the testimony of the Respondent that he was a moral person, didn't want to ever cheat anyone, and always tried to do the right thing. In short, there are no factors underlying the shoplifting incident which mitigate or give rise to a reasonable explanation for the Respondent's conduct. This factor therefore does not weigh in his favor.

f. Cumulative effect of the conduct or information. The effect of the conduct, primarily affecting the Respondent, was three-fold. First, it put the Respondent in a worse financial situation than he was already experiencing due to court costs and fees associated with the diversion program. Conversely, it caused him to focus his efforts on his work, which resulted in him having his most successful months earning commissions. Second, the Respondent testified that he knew stealing was wrong, but didn't think the criminal charge would affect his license. However, he must have had some inkling that there could be licensing repercussions since he told no one in a position of authority at the Agency that he had been arrested or about the Diversion until around the time he submitted his Application. The shoplifting charge resulted in the Summary Order refusing to renew and revoking the Respondent's license. Finally, the Respondent and his witnesses testified about the "thousands of dollars" in commissions he was losing due to the revocation of his license. Also, not having an insurance license put into question his continued role with the Agency.

While the Respondent expressed remorse for his conduct, the testimony suggested the remorse was driven more by the financial consequences wrought from getting caught and having his license revoked than concern or shame about committing a dishonest and illegal act. Testimony at the hearing suggested that Respondent's inability to earn

commissions due to losing his license was more important than the seriousness of the Respondent's criminal act of theft. More concerning to the Presiding Officer were statements made by Respondent, his witnesses, and character references, which demonstrated a disquieting failure to recognize the seriousness of the Respondent's conduct and an attitude that an arrest of a licensed insurance agent for shoplifting has no bearing on the trustworthiness of the agent in conducting insurance transactions for insurance consumers.<sup>8</sup> Plain and simple, the Respondent committed a criminal act, one inherently demonstrating dishonesty and a lack of trustworthiness. The seriousness of this conduct seems to be lost on the Respondent and his employers, and weighs against the Respondent.

g. Evidence of rehabilitation. While the Respondent testified that what he did was wrong and would not be repeated, there is little evidence of rehabilitation here except perhaps for information gleaned by Respondent by the court-ordered anti-theft class. The therapy sessions Respondent began two weeks prior to the hearing, while perhaps helpful to him mentally and emotionally, have not been of sufficient duration to demonstrate rehabilitation.

---

<sup>8</sup> These included statements expressing the following: The shoplifting incident was merely "a knucklehead move;" repeated characterizations of the incident as a momentary lapse in judgment; repeated characterizations that Respondent was a trustworthy, ethical and moral person - despite universal acknowledgment by all witnesses that stealing is neither ethical or moral, and demonstrates a lack of trustworthiness; respondent should have his license reinstated because he had been punished enough through the loss of thousands of dollars in commissions over the past six or seven months; while there was zero tolerance for an agent to misappropriate client information or funds, situations that happened outside of work and did not involve customers or situations that are explainable and it was believed would not be repeated were unlikely to have any serious consequences imposed; the guardrails in place at the Agency would make it impossible for Respondent to misappropriate any client information or funds without it being detected; repeated statements expressing the belief that Respondent would never attempt to shoplift or steal again; and Respondent should get his license reinstated because he has a good work ethic and is a good agent.

The Respondent testified that he did not think that the theft charge would affect his license, which is very concerning to the Presiding Officer. It suggests that he did not think that committing a crime involving dishonesty, albeit not work-related, bore any relationship to his overall trustworthiness or would raise concern about working with insurance customers. As alluded to before, even more concerning, is that Respondent's witnesses – including the Agency owner, the Agency sales director, and a co-worker – all appeared to share the notion that because Respondent hadn't committed a theft involving his work or an insurance customer, or that the shoplifting incident could be characterized as merely a lapse of judgment, a stupid thing to do, or out of character for the Respondent, that it should more or less be overlooked. Mere statements by the Respondent and his witnesses to the effect that the Respondent had learned his lesson and would not repeat the shoplifting "mistake," do not demonstrate rehabilitation of the Respondent. Remorse for the consequences suffered, perhaps, but not rehabilitation. It must be remembered that there was testimony that despite the good qualities attributed to the Respondent,<sup>9</sup> the witnesses would never have imagined a year ago the Respondent would attempt to shoplift sports trading cards from a Walmart. But, in fact he did. This was impulsive and intentional behavior which demonstrated a lack of self-control and no concern for the consequences. The passage of one year and assurances by Respondent and others that the Respondent would never again commit theft out of impulse or financial need, is insufficient to demonstrate true rehabilitation. This factor weighs against Respondent.

---

<sup>9</sup> As set forth in footnote 9, these qualities included that Respondent was a "moral and ethical person," that he "had learned his lesson from the financial hardship of not making commissions," and that the shoplifting incident was "out of character" for the Respondent.

h. Applicant's social contributions since the conduct. Respondent primarily testified that he participated as a volunteer with the Boy's and Girl's Club including in their Trunk-or-Treat activity. While not extensive, this factor favors Respondent.

i. Applicant's candor in the application process, and materiality of any omissions or misrepresentations. While the Presiding Officer did not find credible or persuasive the various rationales expressed by the Respondent at the hearing for the shoplifting incident, he did display the candor expected of a licensee in the application and hearing process. Similarly, there were no known omissions or misrepresentations by Respondent in this case. This factor weighs in Respondent's favor.

## **V. 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 Presiding Officer has considered the factor relevant to the Respondent's shoplifting charge, as discussed in detail above. The factors which support the Department's decision – in particular, the seriousness of the conduct at issue, its recency, and lack of meaningful evidence of rehabilitation – outweigh mitigating factors in Respondent's favor.

4. The Presiding Officer did not otherwise find the Applicant had demonstrated the trustworthiness necessary to be licensed in Kansas as an insurance producer.

5. In conclusion, the Presiding Officer finds that the Department has sustained its burden of persuading her that the insurable interests of the public would not be served in renewing the Respondent's license at this time.

**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** 7<sup>th</sup> **DAY OF APRIL 2025, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



**VICKI SCHMIDT  
COMMISSIONER OF INSURANCE**

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

**[Remainder of Page left Intentionally Blank.]**

**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 7<sup>th</sup> day of April, 2025, by causing the same to be placed in the United States Mail, first class postage prepaid and properly addressed to the following:

Grady Waltrip  
[REDACTED]  
Shawnee KS 66217  
[REDACTED]@gmail.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