

BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS

In the Matter of the Appellants for)
an Insurance Agent's License of)
DONALD J. FRONCZAK)

Docket No. 2740-L

FINAL ORDER

Effective: 9/7/99

INITIAL ORDER

After due and proper notice, an administrative hearing was conducted on July 29, 1999, pursuant to the authority granted the Commissioner of Insurance by Kansas Statutes Annotated (K.S.A.) 1992 Supp. 40-242 and the applicable provisions of the Kansas Administrative Procedure Act, K.S.A. 77-501, et seq.

Donald J. Fronczak appeared in person. The Kansas Insurance Department was represented by JaLynn Copp, Attorney at Law.

Edward J. Gaschler was the Presiding Officer duly appointed by the Commissioner of Insurance in accordance with K.S.A. 77-514.

Findings of Fact

1. Donald J. Fronczak is a resident of the State of Kansas and the records of the Kansas Insurance Department indicate he has a residential address of [REDACTED], Overland Park, Kansas.
2. Prior to January 14, 1999, Donald J. Fronczak held an insurance agent's license issued by the Missouri Department of Insurance.
3. On January 14, 1999, the Missouri insurance agent's license of Donald J. Fronczak was revoked.
4. The basis for the revocation of the Missouri resident insurance agent's license of Donald J. Fronczak are set forth in the Findings of Fact, Conclusions of Law and Order of Discipline, Case No.

AH(#98-85801) and MDI #97-11-17-03c, Jay Angoff, Director of Insurance, State of Missouri vs. Donald J. Fronczak. Said Findings of Fact and Conclusions of Law are incorporated by reference. (Ex. 1).

5. On May 7, 1999, Donald J. Fronczak filed an application with the Kansas Department of Insurance for a Kansas insurance agent's license.
6. On May 13, 1999, the Kansas Insurance Department denied the application submitted by Donald J. Fronczak on May 7, 1999. The basis for the denial was K.S.A. 40-205b and 40-240 and the finding that Donald J. Fronczak failed to establish that he was of good business reputation and worthy of a license.
7. Mr. Fronczak timely appealed that denial.

Legal Authority

1. K.S.A. 1982 Supp. 40-205b provides,

40-205b. Denial of application to sell stock as agent; hearing. The commissioner of insurance shall have the power to deny any applicant's application, if the applicant is not of a good business reputation, if the best interests of the public will not be served under such license, or for any other good cause appearing to the commissioner of insurance. Any applicant may request a hearing on the question of granting or refusing a license. Upon such request, the commissioner of insurance shall conduct a hearing in accordance with the provisions of the Kansas Administrative Procedure Act.
2. K.S.A. 40-240 provides in part:

40-240. Application for agent's license, contents, fees; corporations and other legal entities acting as agents; reporting requirements subsequent to application, penalties for violations; documentation of application information. (a) Any person desiring as agent to engage in the insurance business, as herein set out, shall apply to the commissioner of insurance of

this state, in the manner hereinafter prescribed, for an insurance agent's license, authorizing such agent to engage in and transact such business. The applicant for such license shall file with the commissioner of insurance such applicant's written application for a license authorizing the applicant to engage in the insurance business and the applicant shall make sworn answers to such interrogatories as the commissioner of insurance may require on uniform forms and supplements prepared by the commissioner. A nonrefundable fee in the amount of \$30 shall accompany such application. Such applicant, if an individual, shall establish:

. . .

(2) that the applicant is of good business reputation and is worthy of a license.

Conclusions of Law


1. The Presiding Officer finds that the Kansas Insurance Department's denial of the resident insurance agent's license application is proper and appropriate.
2. Based upon the findings of fact in Findings of Fact, Conclusions of Law, and Order of Discipline, Case No. AH (#98-85801 and MDI #97-11-17-03c, Donald J. Fronczak forged a signature on a document in connection with an insurance transaction. An act of forgery supports the Department's finding that the respondent has failed to establish a good business reputation.
3. Mr. Fronczak argues that he is rehabilitated. However, no evidence was presented to prove that Mr. Fronczak would not resort to his past behavior if faced with certain challenges of life. Mr. Fronczak has failed to prove that he is of good business reputation and is worthy of a Kansas resident insurance agent's license. Mr.

Fronczak did not provide any compelling justification for his act of forgery that resulted in his Missouri insurance agent's license being revoked.

4. Mr. Fronczak's past action and his failure to present compelling evidence to show he is not likely to resort to his past bad acts supports the Kansas Insurance Department's denial of his application for a Kansas resident insurance agent's license.
5. The public interest in protecting insurance consumers outweigh the desire of Donald J. Fronczak for a license to sell insurance.

IT IS THEREFORE ORDERED THAT the Kansas resident insurance agent's application of Donald J. Fronczak is hereby denied.

Pursuant to K.S.A. 77-527, either party may appeal this initial order. A petition for review must be filed within 15 days from the date of this initial order. Failure to timely request review may preclude further judicial review. If neither party requests a review, this initial order becomes final and binding on the 30th day following its mailing. Petitions for review shall be mailed or personally delivered to: Kansas Insurance Department, Commissioner of Insurance, Kathleen Sebelius, 420 S.W. 9th Street, Topeka, Kansas 66612-1678.

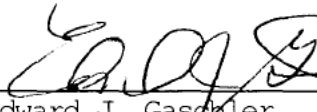

Edward J. Gaschler
Presiding Officer
Office of Administrative Hearings

CERTIFICATE OF SERVICE

On 08/04, 1998, I mailed by U.S. mail, a copy of
this initial order to:

Donald J. Fronczak
8608 West 127th Place
Overland Park, Kansas 66213

Kathleen Sebelius
Commissioner of Insurance
JaLynn Coop, Staff Attorney
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612-1678



Edward J. Gaschler
Presiding Officer
610 SW 10th, 2nd Floor
Topeka, KS 66612