BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS

In the Matter of the Appellants for)
an Insurance Agent's License of) Docket No. 2768-1
Michael L. Stamps)

FINAL ORDER

Effective: 11-15-99

INITIAL ORDER

After due and proper notice, an administrative hearing was conducted on September 30, 1999, pursuant to the authority granted the Commissioner of Insurance by the Kansas Statutes Annotated (K.S.A.) 1992 Supp. 40-242 and the applicable provision of the Kansas Administrative Procedures Act, K.S.A. 77-501 *et seq.* Michael L. Stamps appears 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 the Kansas Insurance Department in accordance with K.S.A. 77-514.

Findings of Fact

1. Michael L. Stamps is a resident in the state of Kansas and the records of the Kansas Insurance Department indicate that he has a residential address of 707 N.E. Freeman, Topeka, Kansas.

2. On January 3, 1999, Michael L. Stamps was operating his motor vehicle. Mr. Stamps hit the right front corner of his automobile with a parked automobile. Mr. Stamps left the scene of the accident and went to his place of employment. Mr. Stamps stayed at his place of employment from approximately 7:00 a.m. to approximately 2:00 p.m. Upon leaving his place of employment, Mr. Stamps drove to the Westridge Mall in Topeka, Kansas, where he parked his automobile, entered the mall, and returned to his car approximately five minutes later. At the time Mr. Stamps returned to his automobile, he called the Topeka Police Department to advise them that he had been a victim of a hit and run and that his car had been hit while at the Westridge Mall. This was a false statement.

3. On January 8, 1999, Mr. Stamps was contacted by the Topeka Police Department. At that time, an appointment was set to meet with the police department by Mr. Stamps.

4. Mr. Stamps ultimately met with the Topeka Police Department. This meeting occurred more than seven days after Mr. Stamps first reported he had been a victim of a hit and run. The Topeka Police Department advised Mr. Stamps that they did not believe his story

that his car had been hit at Westridge Mall. During this meeting, Mr. Stamps ultimately admitted to the Topeka Police Department that he had not been a victim of the hit and run, but rather had hit the other vehicle and then left the scene of the accident and failed to report the accident.

5. Mr. Stamps pled guilty in the Topeka Municipal Court to leaving the scene of an accident, making a false police report, and inattentive driving.

6. Mr. Stamps submitted an application for a resident agent insurance license to the Kansas Insurance Department on July 23, 1999.

7. The application for the resident agent insurance license submitted by Mr. Stamps disclosed his conviction in the Topeka Municipal Court for leaving the scene of an accident, making a false police report, and inattentive driving.

8. The Kansas Insurance Department denied Mr. Stamp's application for an insurance agent's license on July 30, 1999.

9. The Kansas Insurance Department determined that Mr. Stamps had failed to establish that he had a good business reputation and was worth of a license. The department in its action denying Mr. Stamps resident insurance agent's license stated in part:

> The information you provided regarding your hit and run incident and the subsequent attempt to cover it were most disturbing. If you had been able to succeed with this, it could have appeared that insurance fraud may have been committed.

10. On August 3, 1999, Michael L. Stamps filed his request for a hearing concerning his denial of his insurance agent's license.

Legal Authority

1. K.S.A. 40-240 provides in part:

> 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 his state, in the manner hereinafter prescribed, for an insurance agent's license, authorizing such agent to engage in and transact such business. This applicant for such license shall file with the commissioner of insurance such appellant's written application for a license authorizing the application 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 residence insurance agent's license application is proper and appropriate.

2. Based upon the convictions of Mr. Stamps in the Topeka Municipal Court for leaving the scene of an accident and making a false police report the department's finding that Mr. Stamps has failed to establish a good business reputation is proper.

3. Mr. Stamps argues that he simply made a mistake and that he ultimately acknowledged the mistake. While it is true that Mr. Stamps ultimately acknowledged that he had filed a false police report and had made misstatements to the Topeka Police Department, it was over seven days after he initially struck the vehicle that Mr. Stamps acknowledged his wrong doing. Mr. Stamps acknowledged his wrong doing because the Topeka Police Department did not believe his story that his car had been struck by another car at Westridge Mall. It cannot be said that Mr. Stamps voluntarily came forth to admit his wrong doing.

4. Mr. Stamps argues that there is no evidence that he made a false police report with the intent to defraud any insurance company. While there is no direct evidence that Mr. Stamps filed the false police report to defraud an insurance company, there is no other logical reason for Mr. Stamps to file a false police report. There is no reason for Mr. Stamps filing the police report alleging his car had been hit and run at Westridge Mall other than to ultimately report this to his insurance company and benefit financially.

5. Mr. Stamps's past actions and his failure to present any compelling evidence to show that he is not likely to resort to false or misleading statements supports the Kansas Insurance Department's denial of application for a Kansas residential insurance license.

6. The public interest in protecting the insurance consumers outweighs the desire of Mr. Stamps for a license to sell insurance.

IT IS THEREFORE ORDERED that the Kansas resident insurance agent's application of Michael L. Stamps 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.

Edward J. Gaschler
Presiding Officer
Office of Administrative Hearings

CERTIFICATE OF SERVICE

On 10/14/, 1998, I mailed by U.S. mail, a copy of this initial order to:

Michael L. Stamps
707 N.E. Freeman
Topeka, Kansas 66617

Kathleen Sebelius
Commissioner of Insurance
JaLynn Copp, Staff Attorney
Kansas Insurance Department
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