

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

In the matter of
Alan J. Nelson

)
)

Docket No. 2649-L

FINAL ORDER

*(Pursuant to K.S.A. 1998 Supp. 40-242
and K.S.A. 1998 Supp. 77-527)*

Pursuant to the authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 1998 Supp. 40-242 and K.S.A. 1998 Supp. 77-527, this matter comes on for agency head review. After reviewing the record and the briefs submitted by the parties, and having been well advised in the premises, the Commissioner hereby reverses the Initial Order in the captioned cause, previously issued on August 3, 1998 ("Initial Order"). The Commissioner hereby following findings of fact, conclusions of law and policy reasons therefore, as required by K.S.A. 1998 Supp. 77-527(h) and K.S.A. 1998 Supp. 77-526(c), to wit:

Findings of Fact

1. The Findings of Fact made by the Presiding Officer, and as set forth as ¶s 1 through 5 of the Initial Order, are incorporated herein by reference.
2. The crimes for which the Petitioner (Alan J. Nelson) was convicted were not related to the business of insurance.
3. The Petitioner completed his sentence for the crimes committed, and has demonstrated that he has been rehabilitated by doing so;

4. Evidence was submitted as to the Petitioner's trustworthiness and business reputation in the form of letters from friends, family, neighbors, and state officials.

5. The Petitioner has demonstrated that he has been rehabilitated from his former crimes and is attempting to begin a new career and contribute to his community and society.

Legal Authority
and Conclusions of Law

6. K.S.A. 1998 Supp. 40-102 charges the commissioner of insurance "[w]ith the administration of all laws relating to insurance...."

7. K.S.A. 40-103 grants to the commissioner of insurance "[g]eneral supervision, control and regulation of... persons authorized to transact the business of insurance... in this state...."

8. K.S.A. 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. (emphasis added)

9. K.S.A. 1998 Supp. 40-240, provides in pertinent 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.

10. Based on the record on appeal, the briefs submitted for agency head review, and the above Findings of Fact, Legal Authority and Conclusions of Law, the Petitioner has demonstrated that he is of good business reputation and is worthy of a license.

Policy Reasons Therefore

11. The best interests of the public will be served by the Petitioner being given the opportunity to begin a new career.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE,
THAT:**

1. The Initial Order in this matter issued on August 3, 1998, be reversed,
and

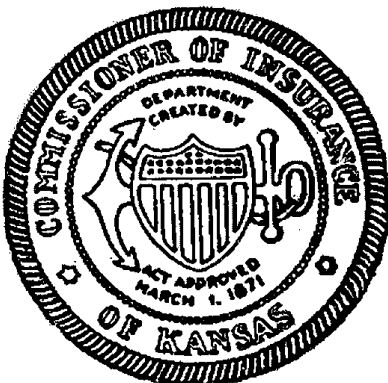
2. That the Petitioner, Alan J. Nelson, be granted a resident insurance
agent's license pursuant to K.S.A. 1998 Supp. 40-240.

NOTICE OF FINAL AGENCY ACTION AND JUDICIAL REVIEW

The issuance of this Final Order constitutes final agency action in this matter. Accordingly, all administrative remedies available to the Petitioner are hereby deemed exhausted, and the filing of a petition for reconsideration is not a prerequisite for judicial review.

The Petitioner may, within thirty (30) days of service of this Final Order, file a petition for judicial review in the appropriate court, as provided for by K.S.A. 77-613. In the event the Petitioner files a petition for judicial review, the agency officer to be served on behalf of the Kansas Insurance Department is: Kathy Greenlee, General Counsel, Kansas Insurance Department, 420 SW 9th Street, Topeka, KS 66612.

**IT IS SO ORDERED THIS 19TH DAY OF FEBRUARY 1999, IN THE CITY OF
TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



_____/s/_____
COMMISSIONER OF INSURANCE

CERTIFICATE OF MAILING

This is to certify that a copy of the Final Order was mailed on the ____ day of February 1999 to:

Alan J. Nelson
2204 East Bayley
Wichita, Kansas 67211

JaLynn Copp (HAND DELIVERED)
Staff Attorney
Kansas Insurance Department
420 SW 9th Street
Topeka, Kansas 66612

/s/ _____
Yolande C. Bennett
Hearing/Appeal Clerk