

BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS

In the Matter of the Application)
for an Insurance Agent's)
License of WILLIAM B. COX)

Docket No. 3059-L

FINAL ORDER

INITIAL ORDER

Effective: 7-4-02

After due and proper notice, an administrative hearing was conducted on May 29, 2002, pursuant to the authority granted by the Commissioner of Insurance by K.S.A. 2001 Supp. 40-4909(c) and the applicable provisions of the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq.

William B. Cox appeared in person. The Kansas Insurance Department, appeared by and through JaLynn Copp, Staff Attorney.

Carol L. Foreman was the Presiding Officer duly appointed by the Commissioner of Insurance in accordance with K.S.A. 77-514.

Findings of Fact

1. William B. Cox is a resident of the state of Kansas, and the records of the Kansas Insurance Department indicate he has a residential address of [REDACTED], Topeka, KS 66611.
2. Mr. Cox filed a uniform application for individual license with the Kansas Insurance Department on April 12, 2002.
3. On the April 12, 2002 application, Mr. Cox answered, "No" to the question, "Have you ever been convicted of, or are currently charged with committing a crime, whether or not adjudication was withheld?"
4. A subsequent investigation by the Kansas Insurance Department found that Mr. Cox had been convicted of criminal trespass, a class B misdemeanor on July 30, 1990. He was also convicted of driving under the influence of alcohol or drugs, third or subsequent conviction, a non-grid, non-person felony on June 6, 1994. On June 18, 1999, Mr. Cox was convicted of driving under the influence of alcohol or drugs, a class A misdemeanor.
5. The application states in pertinent part, "I hereby certify that, under penalty of perjury, all of the information

submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties."

6. By a letter dated April 18, 2002, the Kansas Insurance Department advised Mr. Cox that his application for a resident insurance agent's license was denied, pursuant to K.S.A. 2001 Supp. 40-4909(a)(1), (a)(3) and (a)(6).
7. Mr. Cox timely appealed from that denial letter.
8. Mr. Cox is gainfully employed.
9. Mr. Cox adopted his stepson on May 4, 2001.

Legal Authority

K.S.A. 2001 Supp. 40-4909 provides that a license may be denied "... if the commissioner finds that the applicant ... has:

- (1) Provided incorrect, misleading, incomplete or untrue information in the license application ...
- (3) ... attempted to obtain a license under this act through misrepresentation or fraud ...
- (6) Been convicted of a misdemeanor or felony ...

Conclusions of Law

1. The Presiding Officer finds that the Kansas Insurance Department's denial of Mr. Cox's resident insurance agent's license application is proper and appropriate.
2. The application clearly asked if one has been convicted of a crime. The question is not vague or ambiguous. The application also states that submitting false information or omitting pertinent information can be grounds for denial. Mr. Cox completed the application with incomplete and untrue information. Mr. Cox testified that when the adoption was being completed the attorney and the judge indicated that his record was clear and that is why he did not disclose his convictions on the application.
3. When answering such a question and certifying that the answer is true and correct, one should be certain of the answer. Mr. Cox's vague notion that his record was clean is not a

satisfactory explanation for omitting pertinent information from the application. It cannot be considered an honest mistake. It constitutes providing incomplete and untrue information on the license application.

4. Mr. Cox's actions also constitute an attempt to obtain a license through a misrepresentation.
5. The record shows that Mr. Cox had been convicted of a misdemeanor and a felony.
6. Although Mr. Cox is gainfully employed and appears to have put his life back together, the failure to disclose the convictions on the application cannot be taken lightly. The application clearly states that submitting false information or omitting pertinent material information in connection with the application is grounds for license denial. Mr. Cox testified at the hearing. He did not convince the presiding officer that he was certain that his record was clean. It just appeared to be a vague notion that the record was clean. Filling out applications and certifying information as true and correct, one should be certain that the information is correct.
7. The Kansas Insurance Department is charged with protecting the public's interest in the regulation of the insurance industry. Mr. Cox has failed to prove that he has a good business reputation and is worthy of a Kansas resident insurance agent license in light of the misrepresentation of his criminal record on the application for licensure.
8. Public interest in protecting insurance consumers outweighs the desire of William Cox for a license.

IT IS THEREFORE ORDERED THAT the Kansas resident insurance agent's application of William B. Cox 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.

Carol L. Foreman
Carol L. Foreman
Presiding Officer
Office of Administrative Hearings

CERTIFICATE OF SERVICE

On June 4, 2002, I mailed by U.S. mail, a copy of this initial order to:

William B. Cox
[REDACTED]
Topeka, KS 66611

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

Carol L. Foreman
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