

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

<b>In the Matter of the Application for a</b>	)	
<b>Kansas Nonresident Insurance Producer's</b>	)	
<b>License of GABRIELLE HUFFSTETLER</b>	)	<b>Docket No. 96071</b>
<b>NPN # 20107295</b>	)	

**FINAL ORDER**

**(Pursuant to K.S.A. 40-4906, K.S.A. 40-4909, and K.S.A. 77-501 *et seq.*)**

The Presiding Officer called this matter for hearing via video conference on April 5, 2023. Gabrielle Huffstetler ("Applicant") appeared *pro se* and the Kansas Insurance Department ("Department") appeared by and through counsel, Kimberley Davenport Megrail, Senior Attorney. Applicant appeared to present mitigating evidence for consideration by the Presiding Officer.

**Having reviewed Applicant's application and having considered the testimony, evidence and arguments of the parties, the Commissioner finds the evidence supports the Department's denial of Applicant's application for a Kansas nonresident insurance producer's license and AFFIRMS the Department's decision to DENY the application.**

**Findings of Fact**

1. Applicant submitted an application to the Department for a Kansas nonresident's individual insurance producer's license ("Application").
2. The Application was denied by letter dated December 1, 2022 ("Denial Letter"), with a revised denial letter sent December 27, 2022. ("Revised Denial Letter")
3. Applicant filed a timely request for a hearing.
4. During a pre-hearing conference conducted on February 24, 2023, by the Presiding Officer, information provided by the Applicant revealed there was additional relevant documentation regarding the Applicant's prior felony charge which had not been disclosed to the Department. A Prehearing Order was issued which identified additional documentation that Applicant should

provide to the Department. Following receipt of this documentation, the Department submitted an Amended Prehearing Questionnaire adding these documents as exhibits it intended to introduce as evidence during the formal hearing.<sup>1</sup>

5. The following relevant facts regarding the denial of the Application were established at a formal hearing by documents introduced into evidence along with testimony by the Department's Chief of Producer Licensing ("Department's Witness").

- a. The Application was submitted electronically on September 1, 2022.
- b. Applicant answered "Yes" to Question 1b of the Application which asks:

Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?

- c. Applicant disclosed a deferred adjudication for the following charge:

July 14, 2016, Tarrant County 372<sup>nd</sup> District Court (TX), Case No. 1439241D, Possession of methamphetamine (Felony). (Hereinafter, "Charge").

- d. The Department's Witness testified that applicants who answer "yes" to this background question are required to provide to the Department copies of charging documents, sentencing documents, and a written statement regarding the circumstances of the incident. She testified that when the Application was submitted, some documents had been uploaded by the Applicant in the NIPR "Attachment Warehouse"<sup>2</sup> in connection with applications made previously to other states including: (1) an Order of Deferred Adjudication (dated July 14, 2016) indicating the Applicant plead guilty to the Charge and

---

<sup>1</sup> This information is detailed further below.

<sup>2</sup> Attachment Warehouse is a tool offered through the National Insurance Producer Registry (NIPR) through which license applicants and licensees can upload licensing related documents submitted to report an action, provide documents in response to a "Yes" on a uniform background question, and to forward additional documents relating to an individual's license. The Warehouse is utilized by all states to electronically receive, store, and share licensing related documents with all state licensing regulators. *See generally*, <https://nipr.com/licensing-center/attachments>.

was placed on community supervision for three years, (2) an Order discharging her from community supervision and dismissing the Charge against her (dated February 8, 2019), and (3) two written statements by the Applicant regarding the Charge (as described further below). However, the Applicant did not provide to the Department the charging documents, police reports, or other documentation relevant to the Charge. The Department's Witness testified that without all of the required documentation, the Department cannot make an accurate assessment of whether an Applicant should be granted a license under Kansas licensing requirements.

e. The Department sent a letter to the Applicant both by email and postal mail on September 20, 2022, requesting additional documentation, including the charging documents and police report(s). When the Applicant failed to respond to the letter, the Department issued the Denial Letter which notified the Applicant her Application was denied due to (1) failing to provide documentation regarding the Charge despite instructions in the Application to do so, which constituted providing incomplete information in her Application under K.S.A. 40-4909(a)(1); (2) failing to respond to the Department's request for information regarding the Charge within fifteen days as required by K.S.A. 40-4909(17); and (3) under K.S.A. 40-4909(b) based on the determination that the insurable interests of the public would not be served in granting the license.

f. The Applicant subsequently provided the Department copies of additional documents, including an Indictment, Incident/Investigation Report (which included a narrative of the Applicant's arrest by the reporting officer), and a document detailing the conditions of her Community Supervision under the Order of Deferred Adjudication.

g. The police report for Applicant's arrest contained the following relevant facts:

- i. In the early morning hours of December 15<sup>th</sup>, 2015, officers responded to a call at a local Walmart store. The officers arrested a man in the parking lot near where the Applicant was sitting alone in the passenger seat of the vehicle. As the officer walked by the vehicle, the handcuffed suspect said something to the Applicant. The officers then approached the vehicle to ascertain the Applicant's association with the suspect.
  - ii. The officer observed the Applicant "grab something from her sweater and [toss] it to the passenger floorboard next to her feet." When the Applicant made this movement, the officer heard "a noise which sounded like a glass object striking something."
  - iii. When the vehicle was searched, a glass pipe with narcotic residue was recovered, along with a small bag containing a crystalline substance. Both pieces of evidence were found on the passenger side of the vehicle where the Applicant was seated.
- h. Other court documents provided by the Applicant included the following relevant information:
- i. The Indictment charged the Applicant with "Intentionally or knowingly possess[ing] a Controlled Substance, namely methamphetamine, of Less than One Gram."
  - ii. Under the Order of Deferred Adjudication entered on July 14, 2016, the Applicant was required to report monthly to the county's Community Supervision and Corrections Department, not use or possess any illegal

controlled substances, and obey all rules and regulations of the Community Supervision program.

i. One written statement provided by the Applicant, which was handwritten and dated December 9, 2021, said, "I [took] a charge of my ex's dope stash that was in my car that I didn't know about. Since it was in my car, I got charged." The second statement was a typewritten form, dated December 12, 2021. In response to questions on the form, the Applicant provided the following relevant information:

Circumstances surrounding the charges: My ex was in the vehicle with methamphetamine in [ ] my car. He was inside the store stealing something when on his way out he ran into the off duty sheriff and because of that he was arrested. I was sitting in the car waiting for him when the cop lights shined on the car. Because that was in my vehicle (side passenger door), I was charged with [Possession of a controlled substance of less than one gram].

Describe time served: I served 13 months total, I did a 'SafeP' [sic] program inside a prison unit – Burnett Unit. I completed a rehabilitation program and in completion of that with classes once released, I would have my case dismissed.

Describe any probation served: I served 2 years of probation and had to attend classes weekly and complete assignments and attend NA meetings.

j. The Department's Witness testified that the information received from the Applicant after the Denial Letter did not change the Department's position on denying the Applicant a license. Rather, it was believed the Applicant's statements demonstrated a lack of candor due to inconsistencies between the statements and the narrative in the police reports, and indicated she did not take responsibility for her actions. The Department issued the Revised Denial Letter adding as reasons for the denial the nature and recency of the Charge as well inconsistencies between the Applicant's written statements with the information contained in the police reports.

k. The Department's Witness testified that to receive an insurance license in Kansas, the Department must determine that the applicant is trustworthy and competent, and that Kansas insurance consumers would be served by granting the license.

l. The Department's Witness testified that when an Applicant has had conduct which resulted in criminal charges, the Department prefers for five years to have passed when the conduct resulted in misdemeanor charges and ten years when the conduct resulted in felony charges, without the presence of any subsequent or intervening charges or convictions.

m. The Department utilizes the factors set forth in K.S.A. 40-4909(c)(1) when considering the application of an individual who has been charged with committing criminal acts, even when the applicant may have avoided conviction of the charges by entering into a pretrial diversion or deferred adjudication program. In the Applicant's case, the factors which primarily contributed to the decision to deny the application were the type of charge involved, that ten years had not elapsed since the Charge, and the Applicant's failure to provide the required documentation in response to the Department's inquiry. The Department's witness testified that failure to respond to an inquiry from your licensing regulator is a concern because it indicates that the person may similarly not be responsive to insurance customers.

n. When prior criminal charges or convictions are present in a licensing application, the decision whether to grant or deny the license is not made individually by the Director of Producer Licensing, but by a group of senior managers in the Department who review the information and meet to reach a consensus on the licensing decision. The Department's Witness is a member of this group.

o. The Department's Witness testified the Department reviewed the Application as a whole and did not feel the insurable interests would be served by granting Applicant a license at this time.

p. Court documents provided by the Applicant *after the* Prehearing Conference and *prior to* the Hearing indicated the following:

- i. The Applicant plead guilty to the Charge on January 22, 2016, in exchange for being placed in a First Offender Drug Program. The program allowed the Applicant, as an alternative to incarceration, to receive deferred adjudication following a three year "probationary" period. The deferred adjudication agreement was final on July 14<sup>th</sup>, 2016.<sup>3</sup> Conditions of the program have been noted above.
- ii. On August 4, 2016, the state filed a Petition To Proceed To Adjudication which stated the Applicant violated the terms and conditions of her Deferred Adjudication agreement by (1) failing to appear for a required court conference on August 1, 2016, and (2) admitting to using methamphetamine on July 27, 2016.
- iii. On September 19, 2019, the Applicant agreed to a modification of the terms of her Community Supervision agreement in lieu of being incarcerated for up two years plus assessment of a \$10,000 fine. Under the modified terms, the Applicant was required to participate in the Substance Abuse Felony Punishment Facility ("SAFPF") program for a year, spend three months in an a residential after-care drug program, participate in other substance abuse treatment programs as

---

<sup>3</sup> It is unclear why there was a delay from the proceeding on January 22, 2016, until the order was entered on July 14, 2016.

required by the Texas Commission on Alcohol and Drug Abuse (TCADA), and successfully complete the SAFPF “Re-entry Court Program” as directed.<sup>4</sup>

q. The Department’s Witness indicated this additional information also served to confirm the Department’s denial of the Application based upon the aggravating factors revealed, such as the Applicant’s violation of the terms of her initial Order of Deferred Adjudication, the State petitioning to revoke the Deferred Adjudication agreement based on those violations, and the Applicant being incarcerated in a prison environment as part of the SAFPF program.

r. Also provided by the Applicant was a Certificate of Completion of the “Helping Open People’s Eyes, Inc. SAFF Phase III Peer Support,” dated May 8, 2018; several character letters attesting to the Applicant’s sobriety since completing the substance abuse programs; and a Performance Review Summary from her employer. The Department’s Witness indicated that while these indicated rehabilitation of the Applicant and that she was performing satisfactorily as an insurance agent, this information did not change the Department’s position that she should not be granted an insurance license in Kansas at this time.

6. Applicant’s testimony and documents presented as evidence at the hearing provide the following additional information regarding the circumstances surrounding the Charge, the Deferred Adjudication Agreement, her successful participation in the SAFPF treatment program, and other mitigating evidence which she believed had bearing on her license application:

a. With regard to failing to respond to the Department’s initial request for additional documentation, the Applicant testified she had received the Department’s letter,

---

<sup>4</sup> Further information about these programs was provided during the Applicant’s testimony as discussed below.



but it had been lost in the shuffle of other mail and she didn't notice it until after the date she was to submit the requested documentation to the Department. She denied, however, receiving the emailed copy of the letter. The Applicant confirmed she had not contacted the Department until after receiving the Denial Letter, which she received both by email and physical mail. The Applicant also confirmed she had an email exchange with the Department following her receipt of the Denial Letter in which she indicated she failed to submit the information because she had been busy.

b. In response to a question from the Department's Counsel, the Applicant agreed that responding to inquiries in a prompt manner from the Department is important when applying for a license. The Applicant also agreed that it is important for insurance producers to provide prompt responses to insurance consumers' questions.

c. The written statements provided with the Application regarding the Charge were done by the Applicant for two different insurance companies. The Applicant testified she was directed to provide only basic factual information about the Charge and to not include any information about her character or taking responsibility for the incident.

d. The Applicant provided the following testimony regarding her arrest and the resulting Charge:

- i. The Applicant had driven her ex-boyfriend to the store. When she tired of waiting for him in the car, she moved from the driver seat to the passenger seat to lean back and stretch her legs. The glass pipe was not hers, but she knew it was in the pocket of the passenger door. When the police approached the vehicle, she tried to throw it into the driver's side of the car because she did not want the police to think it was hers. She testified that she didn't know anything about the

bag of methamphetamine that was found on the passenger side of the vehicle during the search of the car. She was only charged because the items were found in her vehicle.

ii. The Applicant was under the influence of methamphetamine that night. She began using methamphetamine when she started dating her ex-boyfriend and had been using methamphetamine for about four months at the time of her arrest. She did not consider herself addicted to methamphetamine but rather had mental health issues that led her to using drugs.

iii. The Applicant disputed the inference in the police report that she may have been sitting in the car with the pipe in her lap.

e. Under the First Offenders Program the Applicant was required to report weekly for drug testing. She stated she “relapsed” soon after the program began. She missed a weekly drug test because she knew it would be positive. She then missed a required court conference because she believed she would be arrested for having missed the earlier drug test.

f. The Applicant testified that the last time she had used methamphetamine was on the date of her arrest - December 15, 2015. She further testified that she was using marijuana – not methamphetamine – when she skipped the drug test in July 2016. When questioned by the Department’s Counsel whether she had admitted to her probation officer that she had used methamphetamine, she stated, “I tested positive for marijuana. I did not test positive for methamphetamine . . . I know that 12/15/2015 is my clean date for methamphetamine.” When directed to the language in the Petition to Proceed to Adjudication indicating the Applicant had illegally used “Methamphetamine” on “July 27,

2016 ([by] admission)” the Applicant stated, “I was not aware [that] during that timeframe I was on meth.”

g. When the Applicant appeared in court following her arrest in relation to the Petition to Proceed to adjudication, she was given the choice of agreeing to a felony conviction or entering into the SAFPF program.<sup>5</sup>

h. The Applicant believed she needed the treatment provided by the SAFPF program to help with her mental health, to get professional counseling about the disease of addiction, and to work on making positive changes in her life. She also wanted to avoid having a felony conviction on her record.

i. The Applicant began the SAFPF program in October 2016. She testified she was in a correctional facility for that phase of the program for 13 months. During that time, she attended courses which were aimed at treating problems with addiction, including helping participants learn to control their emotions, and identifying “triggers” which cause them to want to use drugs. After her release from the correctional facility, the Applicant was placed for three months in a halfway house, during which she continued with a treatment program which included obtaining employment and twice-weekly participation in Narcotics Anonymous (NA) meetings. For the remainder of her time under Community Supervision,

---

<sup>5</sup> The program involves three phases: the first is participating in a variety of substance abuse counseling, therapy, and treatment programs while incarcerated in a correctional facility for the ordered amount of time. The second involves a transition to a residential facility for three months while continuing treatment and finding employment. The third phase involves continuation of treatment programs and participation in the court reentry program, during which participants report every two weeks during the remainder of their period of Community Supervision to meet with a judge and a community supervision officer to discuss their progress. *See generally*, <https://www.defendyourfuture.com/resources/substance-abuse-felony-punishment-facility-safp-or-safpf>; <https://www.tarrantcountytx.gov/en/community-supervision-corrections/cscd-programs-and-services/substance-abuse-felony-punishment-facility-safpf-program>; and [https://www.tdcj.texas.gov/divisions/rpd/substance\\_abuse.html](https://www.tdcj.texas.gov/divisions/rpd/substance_abuse.html).

the Applicant participated in the Court Re-entry program.<sup>6</sup> She successfully completed this and was discharged from Community Supervision and released from Deferred Adjudication on February 21, 2018, after successfully completing the Court Re-entry Program.

j. When asked by the Presiding Officer if she was guilty of the Charge, the Applicant responded, “I was guilty because it was my vehicle.”

k. The Applicant testified to several reasons that she believes she should be granted a license. These include:

- i. Her stint with methamphetamine was brief to the point it was not an addiction. She testified that she does not believe she had an addiction to methamphetamine, rather had underlying issues with mental health and addiction generally.
- ii. The Applicant testified that she has grown and changed positively from when she had used methamphetamine. She learned through her various classes how to avoid triggers in places she visited, people, and other things, and proactively worked to avoid those triggers.
- iii. The Applicant testified that at the time of the Charge she had fallen in with the wrong crowd and did not have the maturity or foresight to understand what ramifications her actions would have in the future. She expressed regret for her actions from that time in her life and her experience with addiction, and said, “I take responsibility [for what I did] and knowing that doing an illegal drug is

---

<sup>6</sup> The Reentry Court Program uses a specialized Drug Court for SAFPF graduates during the aftercare portion of the SAFPF program. The involvement of a judge and judicial monitoring, coupled with regular visits with probation officers and random drug testing, increases SAFPF participant accountability. *See generally*, <https://www.traviscountytexas.gov/courts/criminal/specialty/safpf#>.

wrong. But I was very ignorant seven years ago, I was very selfish, and I wasn't thinking clearly."

- iv. The Applicant indicated she was glad she went through the SAFPF program because it was very therapeutic and taught her a lot about herself and how to work on her mental health. She made the decision to not continue to be the person she was then and feels she should be judged on the progress she has made and who she is today.
- v. She has an insurance producer license in every state except Kansas.
- vi. As evidence of rehabilitation, the Applicant testified that she continues to attend NA meetings, she participates in her Church, and is currently raising two young children. She also participates in "mom's groups" to expand her network of support and communication. The Applicant is also working on a college degree.

6. The Department's Counsel, in her closing statement, asked the Presiding Officer to affirm the Department's denial. She pointed to the Applicant's inability to follow instructions both for her deferred adjudication and with regard to her Application. She failed to initially provide documentation as instructed in the Application and further ignored the Department's request for additional documentation. Her failure to respond to a request by the Department is a violation of K.S.A. 40-4909(17). Protecting the insurable interest of Kansans means licensing only insurance producers who take their obligations seriously, who promptly respond, and thoroughly perform the responsibilities of their job. Regarding the Charge, the Department's Counsel reiterated that the Applicant was initially given an opportunity to enter a first offender program, the terms of which she violated after only a few weeks. The Department also is concerned by the Applicant's lack of candor, as evidenced by the variety of inconsistencies between the police report, court

documents, the Applicant's written statements and her testimony at the hearing. The Department is also concerned about the Applicant's failure to take responsibility for the methamphetamine found in her car or for being a drug addict. The Department's Counsel concluded that the Department would like to see the passage of more time, free of any incidents or issues, before considering an application from the Applicant again.

#### **Applicable Law**

7. 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.

8. K.S.A. 40-4906(a) states "Unless denied licensure pursuant to K.S.A. 2021 Supp. 40-4909, and amendments thereto, a nonresident person shall receive a nonresident agent license..." if additional statutory requirements are met. Further, K.S.A. 40-241 states that "[i]f the commissioner of insurance finds that the individual Applicant is trustworthy, competent and has [passed the appropriate licensing examination]," the commissioner shall issue a license to the Applicant."

9. Pursuant to K.S.A. 40-4909(a)(1) the Commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the Applicant or license holder has provided incorrect, misleading, incomplete or untrue information in the license application.

10. Pursuant to K.S.A. 40-4909(a)(17) the commissioner may deny, suspend, revoke, or refuse renewal of any license under this act if the commissioner finds that the Applicant or license holder has failed to respond to an inquiry from the commissioner within 15 business days.

11. Pursuant to K.S.A. 40-4909(b) the Commissioner may deny, suspend, revoke or refuse renewal of a license upon finding the interests of the insurer or the insurable interests of the public are not properly served under such license.

12. K.S.A. 40-4909(c)(1) sets forth factors the Commissioner shall consider when considering whether to deny, suspend, revoke or refuse to renew the application of an individual who has been convicted of a misdemeanor or felony. The factors to be considered are:

- a. Applicant's age at the time of the conduct.
- b. Recency of the conduct.
- c. Reliability of the information concerning the conduct.
- d. Seriousness of the conduct.
- e. Factors underlying the conduct.
- f. Cumulative effect of the conduct or information.
- g. Evidence of rehabilitation.
- h. Applicant's social contributions since the conduct.
- i. Applicant's candor in the application process.
- j. Materiality of any omissions or misrepresentations.

13. There is no guidance provided in statute as to whether one or some of the factors in K.S.A. 40-4909(c)(1) should be given more weight than others.

14. 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.

#### **Policy Reasons**

15. The Commissioner is charged with licensing, or continuing to license, persons to sell, solicit, or negotiate insurance in the state of Kansas only if the insurable interests of the public are properly served under such license. K.S.A. 40-4909(b). To fulfill this charge, before issuing a nonresident insurance producer's license, the Commissioner should ensure that the Applicant has not committed any act or acts which justify the denial, suspension, revocation or nonrenewal of a license, or which cast doubt on the Applicant's trustworthiness or competence.

#### **Discussion**

16. The Presiding Officer notes this matter involves separate and distinct issues. One is the Applicant's failure to respond to the Department's Inquiry Letter. Another is her criminal charge. Another issue is whether the Applicant is trustworthy. Each of these issues will be addressed.

17. First, however, the Presiding Officer thinks it is important to point out that while other states may have granted the Applicant a license despite her felony charge, the Commissioner is concerned only with reviewing applications under the parameters established by Kansas statutes and the overarching concern of protecting Kansas insurance consumers. How other states have or have not addressed the issue of the Applicant's history has no bearing on the Department's consideration of that history in connection with her application for a Kansas nonresident insurance producer license.

18. Failure to Respond to Inquiry Letter. The Kansas legislature has granted to the Commissioner the authority and discretion to deny license applications for two reasons which are applicable to this matter. One is providing incorrect, misleading, incomplete, or untrue information in the license application under K.S.A. 40-4909(a)(1). The other is failing to respond to an inquiry from the Commissioner within 15 business days under K.S.A. 40-4909(a)(17). In this situation, the Department determined the information provided with the Application did not include required documentation necessary to enable a full evaluation of the Applicant's prior arrests and charges. There is no question that the Department had the authority to deny the Applicant a license for failing to timely respond to their request for additional information. However, the Presiding Officer considers this issue to be moot. The Applicant eventually submitted additional documentation for the Charge. More importantly, the Department reviewed that documentation and made a determination, as stated in the Revised Denial Letter, that the recency and seriousness of the conduct underlying the Charge and the inconsistencies between the Applicant's statements



and the police report were additional reasons upholding the determination that the insurable interests of Kansas insurance consumers would not be served by granting the Applicant a license. As further detailed herein, the recency and seriousness of the charges, and other concerns are sufficient to support the denial of the license application.

19. Evaluation of the Felony Charge. The Applicant was not technically “convicted” of a felony due to a Texas procedure which allows a court to defer an adjudication of guilt when a drug offender participates in the SAFPF program. Upon successful completion of the SAFPF program, the court can then order that the charge be dismissed. The Commissioner has determined that when an Applicant has conduct which resulted in a criminal charge, the factors set forth in K.S.A. 40-4909(c)(1) are appropriate to consider in determining whether the insurable interests of the public would be served by granting a license. Therefore, the Presiding Officer will address each of those factors.

a. “Applicant’s age at the time of the conduct” and “Recency of the conduct.” Applicant is currently 27 years old and was 19 when the conduct underlying the Charge occurred. While she was relatively young at the time, she was legally an adult, and as such was responsible for her conduct. Her arrest occurred seven years prior to when the Applicant submitted her application. The completion of the SAFPF program and subsequent dismissal of the Charge under the terms of her Deferred Adjudication had occurred 4 years prior. These are within the ten-year time frame the Department typically considers when felony charges are involved. These factors weigh against the Applicant.

b. “Reliability of the information concerning the conduct.” Applicant provided statements during the application and hearing process which were conflicting and inconsistent with police reports and other information regarding the conduct underlying the

Charge. She maintained that she was unaware of the bag of methamphetamine, but aware of the pipe with residue, despite both items being in her immediate vicinity in her car. Her testimony indicated she reached into the passenger door pocket to throw the glass pipe to another part of the car, but didn't see or know about the bag of methamphetamine in that same pocket. She consistently maintained in both her written statements and during the hearing that she was only charged with possession because the items were found in her car. Despite these contentions, the Applicant plead guilty to the felony possession charge. In addition, the Applicant consistently denied being addicted to methamphetamine and went so far as to deny using the drug after her arrest in December 2015. However, there was evidence that indicate the Applicant used methamphetamine several months after her arrest.

The Applicant did truthfully answer "yes" on the Application regarding whether she had ever been convicted of a felony or had judgement on a felony deferred. She provided that she had a "[f]elony but deferred adjudication" in one of her written statements. However, the Applicant initially uploaded to the Attachment Warehouse a copy of the July 2016 Order of Deferred Adjudication indicating the Applicant had plead guilty to possession of less than one gram of methamphetamine and was placed on Community Supervision for three years, and the February 2018 Order for Release from Deferred Adjudication. The submission of only these documents seemed designed to convey the impression to various state licensing regulators that she was merely given probation with fairly lenient terms, and that she had successfully complied with those terms without incident. However, as uncovered by the Department during its review of the documents provided by the Applicant following her receipt of the Denial Letter and request for

additional information following the prehearing conference, a much different story emerged. The Applicant almost immediately violated the terms of her initial probation, including using methamphetamine and skipping a required court appearance. The terms and conditions of the SAFPF program were significantly more intense, and punitive, than what was depicted in the documents submitted by the Applicant in the Attachment Warehouse. While the Applicant appeared to provide credible testimony about the SAFPF program during the hearing, it cannot be overlooked that the initial information provided was incomplete and deceptive. This cannot be overlooked in assessing the reliability of the information provided by the Applicant. It was only due to the Department's continued inquiries that everything the applicant ultimately was required to fulfill for the deferred adjudication was finally disclosed. Overall, this factor weighs against the Applicant.

c. "Seriousness of the conduct." Applicant's conduct involved the possession and use of a controlled substance. Additionally, she failed to comply with the terms of her initial deferred adjudication program by again using methamphetamine. This conduct which resulted in a felony drug charge is considered serious by the Presiding Officer.

d. "Factors underlying the conduct." The Applicant admitted she had been using methamphetamine for about four months before the incident resulting in the Charge. She admitted that she and her ex-boyfriend had used methamphetamine before driving to Walmart. She indicated she was high when arrested. While she admitted being aware of the pipe containing residue, she consistently maintained she was unaware of the methamphetamine in the vehicle. The entirety of the Applicant's conduct which resulted in her arrest is all very serious: being under the influence of methamphetamine while driving a vehicle, attempting to dispose of evidence of drug possession or use when

confronted by law enforcement officers, and continuing to deny knowledge of the drugs in her vehicle.

e. “Cumulative effect of the conduct or information.” Applicant’s conduct has shown a repeated pattern of failure to follow instructions and failure to take responsibility for the conduct resulting in her guilty plea. The Applicant continued to blame others for what occurred. The only responsibility she took for her conduct was that she fell in with the wrong crowd and made mistakes thereafter. She also provided deceptive information by what appeared to be the intentional omission of relevant court documents about the circumstances surrounding the Charge and her subsequent punishment. The cumulative effect of these events weighs against the Applicant.

f. “Evidence of rehabilitation.” The Applicant points to the completion of her Deferred Adjudication, her age at the time of the charges, the temporal distance from the underlying incident, her continued involvement in NA and the larger community, starting a family, remaining sober, beginning to take college courses, and starting her career as an insurance producer as evidence of her rehabilitation. The Applicant also provided several letters from family, friends and co-workers who all attested to her rehabilitation, work ethic, and positive contributions to society. The Applicant’s efforts at rehabilitation are commendable. This factor weighs in the Applicant’s favor.

g. “Applicant’s social contributions since the conduct.” As mentioned above, the Applicant has worked hard to overcome her use of methamphetamine and contribute to society at large. Beyond her continued participation in NA meeting, she attends Church, volunteers to assist with her company’s charitable ventures outside of her job duties, and

is raising two young daughters. The Applicant is attending college, and receives positive praise at her job as an insurance producer. This factor weighs in the Applicant's favor.

h. "Applicant's candor in the application process" and "materiality of any omissions or misrepresentations." The Department had ample reason to question the Applicant's candor and responsibility during the application process. Applicant initially disclosed she had a felony drug possession charge with a Deferred Adjudication to the Department. However, her Written Statements were inconsistent with police reports and court documents. Furthermore, the initial probation, and the violation thereof, was not known to the Department until the prehearing conference, well after the appropriate timeframe to disclose this information. The failure to timely disclose this information constitutes a material omission of highly relevant information by the Applicant. In addition, her testimony and Written Statements continued to shift the responsibility away from herself, despite evidence of inconsistencies in these representations. The Applicant's testimony that she hadn't used methamphetamine since her arrest in December 2015 was also not credible considering evidence of her admission to her probation officer that she failed to appear for a mandatory drug test in July 2016 due to having used methamphetamine – over seven months after she claimed she ceased using the drug. This factor weighs against the Applicant.

20. Applicant's Trustworthiness. As discussed in more detail above regarding the reliability of information regarding the Charge, the Applicant's candor, and materiality of omissions or misrepresentations, there is a sufficient basis for the Department and the Presiding Officer to question the Applicant's trustworthiness. It is hoped the Applicant will provide more forthright and complete information about the Charge, her failure to abide by the terms of her initial

probation, and the SAFPF program she was required to complete if she chooses to submit an application in the future to the Department.

### **Findings of Fact and Conclusions of Law**

21. The Commissioner has jurisdiction over the Applicant as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

22. 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.

23. Factors that are not in the Applicant's favor and which support the Department's decision include the seriousness and recency of the 2015 Charge, Applicant's failure to comply with the terms of her initial sentencing (including continuing to use methamphetamine), the severity of the terms of her modified deferred adjudication/community supervision program (including participation in the SAFPF program while incarcerated in a correctional facility) as well as her insufficient disclosure and documentation of relevant information, are discussed in detail under the factors above. The factors which support the Department's decision far outweigh those which support the Applicant.

24. The Presiding Officer did not otherwise find reason to question the Department's determination that the insurable interests of the public would be served in granting the Applicant a license at this time.

### **Finding and Order**

The Presiding Officer, acting on behalf of the Commissioner, finds the Application should be denied pursuant to K.S.A. 40-241, K.S.A. 40-4906(a), 40-4909(a)(1), K.S.A. 40-4909(a)(17), and under K.S.A. 40-4909(b). for the reasons set forth above which supports the determination that the insurable interests of the public would not be served in granting the license at this time.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the DENIAL of Applicant's application for a Kansas nonresident insurance producer's license is AFFIRMED.

IT IS FURTHER ORDERED THAT, pursuant to K.S.A. 40-4909(j)(1), the Applicant SHALL NOT APPLY for a license until after ONE YEAR from the date of this Order.

IT IS SO ORDERED THIS 8<sup>th</sup> DAY OF MAY 2023, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



VICKI SCHMIDT  
COMMISSIONER OF INSURANCE

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

#### NOTICE

Pursuant to K.S.A. 77-601 *et seq.*, Applicant is entitled to judicial review of this Final Order. The 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 pursuant to K.S.A. 77-531). In the event Applicant files a petition for judicial review pursuant to K.S.A. 77-613(e), the Agency Officer to be served on behalf of the Kansas Insurance Department is:

Justin L. McFarland, General Counsel  
Kansas Insurance Department  
1300 SW Arrowhead Road  
Topeka, KS 66604

#### CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the above-and-foregoing Final Order upon Applicant by causing a copy of the same to be deposited in the United States mail, first class postage prepaid, on the 8<sup>th</sup> day of May 2023, addressed to the following:

Gabrielle Huffstetler

Garland, TX

*Applicant*

And hand-delivered to the following:

Kimberley Davenport Megrail  
Senior Attorney  
Kansas Insurance Department  
1300 SW Arrowhead Road  
Topeka, KS 66604  
*Counsel for the Kansas Insurance Department*

*Mindy Forrer*

Mindy Forrer  
Legal Assistant