

BEFORE THE COMMISSIONER OF INSURANCE  
OF THE STATE OF KANSAS

**FINAL ORDER**

In the Matter of the )  
Kansas Resident Insurance Agent's )  
License Of )  
Mark B. Baker )

Effective: 12-4-00  
Docket No. 2897-RA

**INITIAL ORDER**

After due and proper notice, an administrative hearing was conducted on October 17, 2000, pursuant to the authority granted by the Commissioner of Insurance by K.S.A. (Supp.1992) 40-242 and that provisions of the Kansas Administrative Procedures Act, K.S.A. 77-501 et seq. The Kansas Insurance Department, the Petitioner, was represented by JayLynn Copp, Attorney at Law. The Respondent, Mark B. Baker did not appear and pursuant to K.S.A. 77-520, a Default Order was issued and that Default Order is now final.

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. Mark B. Baker is a resident of the state of Kansas and the records of the Kansas Insurance Department indicate that he has a residential address of 421 S. Stoney Point, Wichita, Kansas 67209-3543. Mark B. Baker formerly held a resident insurance agent's license in the state of Kansas. That license has now been surrendered to the Kansas Insurance Department.
2. Donna Roe, Gerald D. and Jacqueline Reiboldt, Ronnie Boston, Lucille Lentz, Minnie Thompson, David Weekley, and Elizabeth Septer were all former Kansas insurance customers of Mark B. Baker.
3. During the course of the respondent's business relationship with Donna Roe, Gerald and Jacqueline Reiboldt, David Weekley, and Elizabeth Septer, Mr. Baker made false or misleading statements and representations to these individuals for the purpose of inducing or causing them to file insurance to lapse, be forfeited, or surrendered. Specifically, the respondent told Donna Roe that a preexisting medical condition need not be disclosed on an insurance application. The respondent told Gerald and Jacqueline Reiboldt that forms needed to be signed to transfer insurance policies when in

reality these were new insurance applications. The respondent advised David Weekley that Mr. Weekley's existing insurance company was filing bankruptcy. This was a false statement. The respondent advised Elizabeth Septer that her insurance company was going out of business. This was a false statement.

4. In the course of the respondent's business relationship with Gerald and Jacqueline Reiboldt and Minnie Thompson, the respondent altered or endorsed written instruments without the permission or authority of Gerald and Jacqueline Reiboldt or Minnie Thompson for the purpose of obtaining personal gain. The respondent wrote a life insurance policy on the life of Jacqueline Reiboldt while reporting to her that the policy was a long term care policy. The respondent altered a post dated check given to her by Minnie Thompson changing the date from May 1, 1999, to April 1, 1999.
5. During the course of the respondent's business relationship with Gerald and Jacqueline Reiboldt, the respondent altered a check in order to allow the respondent to obtain an automatic bank draft with an intent to defraud Gerald and Jacqueline Reiboldt. The respondent forged Jacqueline Reiboldt's signature on an application for automatic bank draft payment for insurance. Ms. Reiboldt did not authorize any automatic bank drafts nor did Ms. Reiboldt authorize the respondent to sign her name.
6. During the course of the respondent's business relationship with Donna Roe and Ronnie Boston, the respondent knowingly and with an intent to defraud presented applications to insurers knowing the applications contained materially false information and that the applications concealed, for the purpose of misleading information relating to the insurability of the consumer. The respondent advised Donna Roe not to disclose a preexisting health condition on an application for health insurance. The respondent, knowing that Ronnie Boston suffered from cancer, submitted an application for insurance indicating that Mr. Boston had no prior treatment for cancer.
7. During the course of the respondent's business relationship with Elizabeth Septer, the respondent made false and misleading misrepresentation concerning the benefits, advantages, conditions, and terms of insurance policies sold to these individuals. The respondent told Elizabeth Septer that by purchasing insurance from him, she would receive a card that allowed her to purchase medication and prescriptions at a greatly reduced price. This was not true and Ms. Septer never received any such card.

8. The respondent in his business dealings with Gerald and Jacqueline Reiboldt, Lucille Lentz, David Weekley, and Elizabeth Septer made false or otherwise misleading statements concerning the financial condition of insurance company indicating to these consumers that the company was bankrupt and that another company would be taking over their policies. The insurance company used by all the individuals was not bankrupt.
9. The respondent in his business dealings with Donna Roe, Gerald and Jacqueline Reiboldt, David Weekley, and Elizabeth Septer made false statements and misrepresentations for the purpose of inducing the lapse forfeiture or the exchange of an insurance policy. The false statements made by the respondent regarding the financial condition of various insurance companies were made in order to induce the insurers to transfer their insurance to the respondent's company.

#### Legal Authority

1. K.S.A. 1999 Supp. 40-242 provides in part:
  - (a) The commissioner of insurance may impose a penalty prescribed by section (e) or revoke or suspend the license of any broker or agent in the event that the investigation by the commissioner discloses that: . . .
  - (5) The holder of such license made any misleading representations or any complete comparisons of policies to any persons for the purpose of inducing or tending to induce such person lapse, forfeit, or surrender such person's insurance then enforced;
  - (7) The interest of the insurer or insurable interest of the public are not properly served under such license. . .
  - (e) The imposition of any penalty, or lapse or suspension of any license by operation of law, by failure to renew or by voluntary surrender shall not deprive the commissioner of jurisdiction or right to institute or proceed with any disciplinary proceeding against such licensee, to render a decision suspending or revoking license, or to establish or make a record of the facts of any violation of law for any lawful purpose.
2. K.S.A. 1999 Supp. 40-2,118 provides in part:

The purpose of this act, a fraudulent insurance act means an act committed by any person who, knowingly and with intent to fraud, presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written statement as part of, or in support of, an application for insurance of, or the

rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to any insurance policy for commercial or personal insurance which the person knows to contain materially false information and concealing any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto.

3. K.S.A. 1999 Supp. 40-240 provides in part:

The following are hereby defined as unfair methods of competition and unfair or deceptive acts, practices in the insurance industry;

- (1) making or causing to be made any statement which
  - (a) misrepresents benefits, advantages, conditions or terms of any insurance policy; . . .
  - (d) is misleading or is a misrepresentation as to the financial condition of any person or as to the legal reserve system upon which any life insurer operates;. . .
  - (f) is a misrepresentation for the purpose of inducing or intending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policies.

4. K.S.A. 40-2404 provides in part:

"The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

- (1) Making. . . or causing to be made. . . any statement. . . which:
  - (a) misrepresents the benefits, advantages, conditions or terms of any insurance policy . . .
  - (d) is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates;. . .
  - (f) is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policy;. . ."

Conclusions of Law

- 1. The misleading misrepresentations made by the respondent to Donna Roe, Gerald and Jacqueline Reiboldt, David Weekley, and Elizabeth Septer violate the provisions of K.S.A. (Supp.1999) 40-242(a) (5).

2. The respondent's altering and endorsing written instruments in such a manner that they reportedly made or endorsed by another as done by the respondent involving Gerald and Jacqueline Reiboldt, and Minnie Thompson constitutes a violation of K.S.A. (Supp.1999) 40-242(a)(7).
3. The action of the respondent in fraudulently altering a written document in order to gain financial gain as done in the case involving Gerald and Jacqueline Reiboldt constitute a violation of K.S.A. (Supp.1999) 40-242(a)(7).
4. The action of the respondent in knowingly and intentionally presenting applications for insurance when the respondent knew the applications contained material false misrepresentation or concealment of material fact constitutes a violation of K.S.A. (Supp.1999) 40-2,118.
5. The action of the respondent in making statements to Elizabeth Septer, Donna Roe, and Gerald and Jacqueline Reiboldt which misrepresented the benefits, advantages, and conditions of various insurance policies constitutes a violation of K.S.A.. (Supp.1999) 40-2404(1)(a).
6. Statements made by the respondent that misrepresented the financial condition of insurance companies or the company's legal reserve that were made to Gerald and Jacqueline Reiboldt, Lucille Lentz, David Weekley, and Elizabeth Septer constitute a violation of K.S.A. (Supp.1999) 40-2404(1)(d).
7. Statements made by the respondent to Donna Roe, Gerald and Jacqueline Reiboldt, David Weekley, and Elizabeth Septer which were made with the purpose of inducing the insurers to allow their policies to lapse, be forfeited, exchanged or converted or surrendered constitutes a violation of K.S.A. (Supp.1999) 40-2404(1)(f).
8. There has been no evidence that mitigates, explains or otherwise excuses the actions of the respondent in the numerous violations of the applicable laws.

IT IS THEREFORE ORDERED THAT the Kansas resident insurance agent's application of Mark B. Baker is hereby revoked.

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 30<sup>th</sup> 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 by 4  
Edward J. Gaschler  
Presiding Officer  
Office of Administrative Hearings

CERTIFICATE OF SERVICE

On November 3, 2000, I mailed by U.S.  
mail, a copy of this initial order to:

Mark B. Baker  
421 S. Stoney Point  
Wichita, KS 67209-3543

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

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