

BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS

FINAL ORDER

In the Matter of the Kansas)
Nonresident Insurance Agent's)
License of DAVID M. JACKSON)

Effective: 8-9-02
Docket No. 3061-SO

INITIAL ORDER

After due and proper notice, an administrative hearing was conducted on June 28, 2002, pursuant to the authority granted to 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.*

David M. Jackson 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. David M. Jackson is a resident of the state of Texas, and has a current mailing address of 3803 Rockford Drive, Dallas, Texas 75211. He is licensed to transact the business of insurance as a nonresident agent in the State of Kansas.
2. Jackson told a representative of the Office of the Kansas Securities Commissioner ("Securities Commissioner") that, in 1996 he learned about viatical investment contracts from a Mutual Benefits Corporation ("Mutual Benefits") representative or from an insurance industry magazine or flier.
3. At least three Kansas residents have filed complaints with the Securities Commissioner regarding viatical sales made by Jackson. Each of the three complaints pertains to American Benefits Group, Inc. ("American Benefits") viatical investment contracts.
4. Jackson further told a representative of the Securities Commissioner that from the time he first learned about viatical investment contracts in 1996, until his last sale of a viatical investment contract in March of 1997, he sold three (3) American Benefits and approximately nine (9) Mutual Benefits viatical investment contracts to Kansas residents

while within the State of Kansas.

5. Although Jackson has been requested to provide to the Securities Commissioner a list of all Kansas residents he made viatical investment contract sales to while within the State of Kansas, he has failed to do so.
6. Jackson admitted to a representative of the Securities Commissioner that he received a 7% - 8% commission for all viatical sales he made to Kansas residents.
7. Jackson was not registered as a broker, dealer or agent under the Kansas Securities Act when he sold the viatical investment contracts to residents of the State of Kansas.
8. The American Benefits and Mutual Benefits viatical investment contracts sold by Jackson to Kansas residents, while within the State of Kansas were not registered under the Kansas Securities Act.
9. The American Benefits and Mutual Benefits viatical investment contracts sold to the Kansas residents, while within the State of Kansas, are securities within the meaning of K.S.A. 17-1252(j).
10. The sale of these American Benefits and Mutual Benefits viatical investment contracts is in violation of K.S.A. 17-1255.
11. Jackson was not licensed to sell securities in the State of Kansas. The sale of American Benefits and Mutual Benefits viatical investment contracts by an unregistered person is in violation of K.S.A. 17-1254.
12. Based upon the above facts, on February 6, 2002, a permanent cease and desist order was entered against Jackson by the Securities Commissioner requiring him to immediately cease and desist from soliciting offers to buy or making offers to sell, or effecting or transacting sales of the securities of any person or entity, or directly or indirectly aiding or assisting in the same or attempting to do the same, (1) unless and until such securities have been registered for offer and sale pursuant to the provisions of the Kansas Securities Act; and (2) unless and until Jackson first becomes registered as a broker-dealer or agent pursuant to the provisions of the Act, or unless and until Jackson is specifically exempt from the registration requirements of the Act; and (3) unless and until Jackson refrains from all acts and practices which constitute violations or are about to constitute violations of the Kansas Securities Act.

13. On November 22, 1983, David M. Jackson entered into a consent order with the Kansas Insurance Department. The consent order orders that:

1. David M. Jackson cease and desist from making any statements, sales presentations, omissions or comparisons which misrepresent the benefits or terms of any policy.
2. David M. Jackson cease and desist from making false or fraudulent statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, money or other benefit from any individual in this State.
3. David M. Jackson cease and desist from transacting the business of insurance in the State of Kansas as an insurance company prior to being duly authorized and receiving proper written authority from the Commissioner of Insurance to transact such business.
4. David M. Jackson agrees to pay C.H. one thousand five hundred fifty-nine dollars and twelve cents (\$1,559.12), within thirty (30) days of the effective date of this Consent Order, which sum represents the total amount claims Mr. Jackson represented to be covered under policies he procured on behalf of the H.

14. On February 11, 1985, David M. Jackson entered into a consent order with the Kansas Insurance Department. The consent order orders that:

1. David M. Jackson shall cease and desist from enrolling ineligible persons for group insurance coverage.
2. David M. Jackson shall cease and desist from including false information on insurance application forms.
3. The license for David M. Jackson to transact the business of insurance within the State of Kansas shall be suspended for four (4) months after the effective date of this Consent Order.
4. David M. Jackson shall pay to the Commissioner of Insurance, within thirty (30) days after the effective date of the Consent Order, a monetary penalty pursuant to K.S.A. 40-2407 in the amount of five hundred dollars (\$500).

Legal Authority

K.S.A. 2001 Supp. 40-4909 provides, in relevant part:

"(a) The commissioner may suspend, revoke...any license issued under this act if the commissioner finds that the...license holder has:...

(8) Used any fraudulent, coercive, or dishonest practice, or demonstrated any incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere....

(b) In addition, the commissioner may suspend, revoke...any license issued under this act if the commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under such license...."

Conclusions of Law

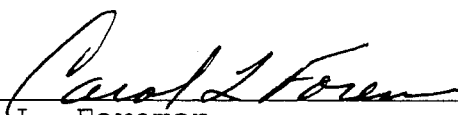
1. The above-mentioned consent orders and cease and desist order support the conclusion that David Jackson used fraudulent and dishonest practices and demonstrated incompetence, untrustworthiness and financial irresponsibility in the conduct of business in this state.
2. The Kansas Insurance Department requests that David M. Jackson's nonresident agent's license be revoked due to his questionable business practices, evidenced by the consent orders and cease and desist order.
3. David M. Jackson contends that his business practices have been ethical since the 1985 consent order. He further contends that he did not intend to violate the securities law of Kansas.
4. The Presiding Officer concludes that the appropriate discipline for David M. Jackson's actions in this instant case is suspension of his nonresident agent's license for one year.
5. The Kansas Insurance Department asserts that there is a pattern of questionable business practice as evidenced by the consent orders and the cease and desist order. Those documents do support that Mr. Jackson had questionable business practices. Sixteen years have lapsed between the last consent order and the most recent cease and desist order. Revocation of his nonresident agent's license is too harsh of a penalty in light of the sixteen year lapse between the 1985

consent order and the recent cease and desist order. The activities that led to the most recent cease and desist order occurred eleven to twelve years after the last consent order. Thus, the time period between the questionable business practices of Mr. Jackson would show that revocation of his license is too severe a discipline and a one-year suspension is a more appropriate discipline in this instant case.

6. The Kansas Insurance Department is charged with protecting the public's interest in the regulation of the insurance industry. Because of David M. Jackson's most recent violation of Kansas security law and the 1983 and 1985 consent orders regarding his insurance business show that his business practices are and have been questionable. It is in the public's interest to suspend Mr. Jackson's nonresident agent's license for one year.

IT IS THEREFORE ORDERED THAT the nonresident agent's license of David M. Jackson is hereby suspended for one year after the effective date of this order.

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.



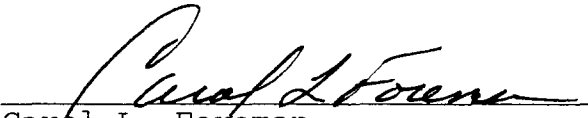
Carol L. Foreman
Presiding Officer
Office of Administrative Hearings

CERTIFICATE OF SERVICE

On July 10, 2002, I mailed by U.S. mail, a copy of this initial order to:

David M. Jackson
3803 Rockford Drive
Dallas, Texas 75211

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


Carol L. Foreman
Presiding Officer
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