

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

In the Matter of the Kansas	)	
Nonresident Insurance Agent's	)	Docket No. 3062-SO
License of Jeffrey S. O'Rourke	)	

**SUMMARY ORDER**  
**(Pursuant to K.S.A. 2001 40-4909**  
**and K.S.A. 77-537)**

Pursuant to authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 2001 Supp. 40-4909, the Commissioner hereby revokes the license of Jeffrey S. O'Rourke ("O'Rourke"), by way of Summary Order, as provided by K.S.A. 77-537.

The Commissioner has been shown the following facts, and takes the following action:

1. Records maintained by the Kansas Insurance Department ("KID") indicate that O'Rourke is a resident of the State of Missouri, and has a current mailing address of 12249 West 87<sup>th</sup> Street, Lenexa, Kansas, 66215, and that he is licensed to transact the business of insurance as a nonresident insurance agent in the State of Kansas.
2. Accordingly, the Commissioner has jurisdiction over O'Rourke and the subject matter of this proceeding, and such proceeding is held in the public interest.
3. On March 8, 2002, the KID received an application for license from O'Rourke, certifying such application by signing it before a notary public, and swearing that all answers thereon were true and correct. He answered "No" to the questions,

“Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?”

4. Based upon the information contained in O’Rourke’s application, he was issued a resident license to transact the business of insurance on March 12, 2002.

5. Information received by the KID, subsequent to O’Rourke receiving his license, from the Kansas Bureau of Investigation (“KBI”) reveals that on or about January 5, 2001, he was convicted of possession of simulated controlled substances or drug paraphernalia, a class A nonperson misdemeanor and possession of depressant/stimulants/hallucinogenics/steroids, a class A nonperson misdemeanor, in Olathe Municipal Court.

6. On March 13, 2002, LeRoy Brungardt (“Brungardt”), Director of Agents Division, sent a letter to O’Rourke requesting him to furnish the KID with further details surrounding the information listed in paragraph 5 above and why he did not disclose it when asked on the application.

7. On or about March 18, 2002, the KID received a response from O’Rourke. He indicated that on or about the 9<sup>th</sup> day of October 2000 he was arrested in the City of Olathe for misdemeanor possession of marijuana and paraphernalia. O’Rourke was convicted of the charge on February 9, 2001 and placed on probation. He indicated that the reason that the conviction was excluded off of the license application was due to the information received from the KID’s website that caused some confusion rather or not to list the conviction due to the fact that they were city charges.

8. The KID’s website does not address the issue of an applicant not being required to disclose misdemeanor convictions which stem from city charges.

9. Since the issuance of O'Rourke's license on March 12, 2002, he has not been certified or appointed to transact the business of insurance by an insurance companies.

### **Conclusions of Law**

10. K.S.A. 40-241 provides in relevant part:

...If the commissioner of insurance finds that the individual applicant is trustworthy, competent and has satisfactorily completed the examination, the commissioner shall forthwith issue to the applicant a license as an insurance agent but the issuance of such license shall confer no authority to transact business in this state until the agent has been certified by a company pursuant to K.S.A. 2001 Supp. 40-4912, and amendments thereto..."

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

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

(1) Provided incorrect, misleading, incomplete or untrue information in the license application....

(3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud....

(b) In addition, the commissioner may...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.

12. Based upon the allegation contained in paragraph 9 above, it appears that O'Rourke has not been certified by a company and, therefore, has no authority to transact the business of insurance in the State of Kansas, in violation of K.S.A. 40-241.

13. Based upon the allegations contained in paragraphs 3 through 8 above, it appears that O'Rourke provided incorrect, misleading, incomplete or untrue information in his license application, in violation of K.S.A. 2001 Supp. 40-4909(a)(1).

14. Based upon the allegations contained in paragraphs 3 through 8 above, it appears that O'Rourke obtained his license through misrepresentation or fraud, in violation of K.S.A. 2001 Supp. 40-4909(a)(3).

15. Based upon the allegations contained in paragraphs 3 through 8 above, it appears that the interests of the insurer and insurable interests of the public are not properly being served under O'Rourke's license due to his providing incorrect, misleading, incomplete or untrue information in the application and by obtaining the license through misrepresentation or fraud, in violation of K.S.A. 2001 Supp. 40-4909(b)

16. Accordingly, sufficient grounds exist for the revocation of the insurance agent's license of Jeffrey S. O'Rourke, pursuant to K.S.A. 2001 Supp. 40-4909.

17. Based upon the facts and circumstances set forth hereinabove, it appears that the use of summary proceedings in the manner set forth herein does not violate any provision of the law, and the protection of the public interest does not require the KID to give notice and opportunity to participate to persons other than Jeffrey S. O'Rourke, all in accordance with the provisions set forth in K.S.A. 77-537(a).

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

1. The nonresident insurance agent's license of Jeffrey S. O'Rourke is hereby revoked.

**Notice and Opportunity for Hearing**

Jeffrey S. O'Rourke, within fifteen (15) days of service of this Summary Order, may file with the KID written request for a hearing on this Summary Order, as provided

for by K.S.A. 77-542. In the event a hearing is requested, such request should be directed to:

Kathy Greenlee  
General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612

If a hearing is not requested, this Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period for requesting a hearing.

Any costs incurred as a result of conducting any administrative hearing authorized under the provisions of K.S.A. 2001 Supp. 40-4909 shall be assessed against the agent who is the subject of the hearing, as provided for under K.S.A. 2001 Supp. 40-4909(f). Costs shall include witness fees, mileage allowances, any costs associated with the reproduction of documents which become a part of the hearing record and the expense of making a record of the hearing.

**IT IS SO ORDERED THIS 29<sup>th</sup> DAY OF MAY, 2002 IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



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/s/ Kathleen Sebelius  
Kathleen Sebelius  
Commissioner of Insurance  
BY:

\_\_\_\_\_  
/s/ Kathy J. Greenlee  
Kathy J. Greenlee  
General Counsel

**Certificate of Service**

The undersigned hereby certifies that the above and foregoing Summary Order was served this 29<sup>th</sup> day of May 2002, by depositing the same in the United States Mail, first class postage prepaid, addressed to the following:

Jeffrey S. O'Rourke  
122249 West 87<sup>th</sup> Street  
Lenexa, Kansas 66215

/s/ Kathy J. Greenlee  
Kathy J. Greenlee