

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

**FINAL ORDER**

Effective: 2-17-03

In the Matter of the Kansas Resident	)	
Insurance Agent's License of	)	Docket No. 3121-SO
STEPHEN D. SMITHERS	)	

**SUMMARY ORDER**

**(Pursuant to K.S.A. 2001 Supp. 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 nonresident agent's license of Stephen D. Smithers ("Smithers") by way of Summary Order as provided by K.S.A. 77-537.

**Findings of Fact**

The Commissioner has been shown the following facts:

1. Records maintained by the Kansas Insurance Department ("KID") indicate that Smithers is licensed as a nonresident agent to transact the business of insurance in the State of Kansas. KID records further indicate a legal mailing address of 10307 Blue Ridge Boulevard, Kansas City, MO 64134-1914. Upon information and belief, Smithers' current mailing address is 7711 O'Connor Drive #2108, Round Rock, TX 78681.
2. By letter dated July 26, 2002, American Income Life Insurance Company advised KID that Smithers was terminated for cause for forging signatures of existing policyholders on applications for additional coverage, and the company canceled Smithers' appointment as an agent.
3. Included with the letter were nine applications for additional coverage on existing policyholders paired with prior applications for comparison of signatures.
4. Smithers stated that insureds had given oral approval of the applications.

5. In four cases, either the insured or a spouse of the insured told KID investigators that they did not know Smithers, did not knowingly speak with him regarding additional coverage, and did not give approval to submit applications for additional coverage, deduct premiums from their bank accounts, or sign their names to the applications.

### **Conclusions of Law**

6. K.S.A. 2001 Supp. 40-4909(a) provides, in relevant part:

“The commissioner may suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the applicant or license holder has . . . (4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business. . . .

(7) Admitted to or been found to have committed any insurance unfair trade practice or fraud in violation of K.S.A. 40-2404 and amendments thereto.

[or] (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.” K.S.A. 2001 Supp. 40-4909(a).

“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 insurer, agent, broker or individual” is an unfair or deceptive act or practice as defined in K.S.A. 40-2404(11).

7. The Commissioner may revoke any license issued under the Insurance Agents Licensing Act if the Commissioner finds that the insurable interests of the public are not properly served under such license. K.S.A. 2001 Supp. 40-4909(b).

8. Based upon the information contained in paragraphs 2 through 5 and in the supporting documents and in the findings contained in paragraphs 6 and 7 above, the Commissioner finds that Smithers has misappropriated premium moneys in the course of doing insurance business, has made false or fraudulent statements on an application for insurance for

the purpose of obtaining a benefit, and has used a dishonest practice and demonstrated untrustworthiness and financial irresponsibility in the conduct of business in this state in violation of K.S.A. 2001 Supp. 40-4909(a)(4), (a)(7), and (a)(8).

9. Moreover, Smithers' license should be revoked pursuant to K.S.A. 2001 Supp. 40-4909(b) for the protection of the insurable interests of the public.

10. Accordingly, the Commissioner finds that sufficient grounds exist for the revocation of the nonresident insurance agent's license of Stephen D. Smithers.

11. Based on the facts and circumstances set forth herein, it appears that the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings 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 Stephen D. Smithers.

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

1. The Kansas resident insurance agent's license of Stephen D. Smithers is hereby  
**REVOKED.**

**Notice and Opportunity for Hearing**

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

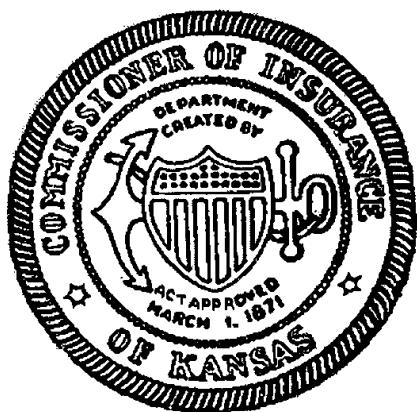
John W. Campbell  
General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, KS 66612

Any costs incurred as a result of conducting any administrative hearing shall be assessed against the agent who is the subject of the hearing as provided by L. 2002, Ch. 158, Sec. 21(f). Costs shall include witness fees, mileage allowances, any costs associated with the reproduction of documents which become part of the hearing record, and the expense of making a record of the hearing.

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-day period for requesting a hearing.

The person designated pursuant to K.S.A. 77-613(e) to receive service of a petition for judicial review on behalf of the KID is John W. Campbell, General Counsel, Kansas Insurance Department, 420 S.W. 9<sup>th</sup> St., Topeka, KS 66612.

**IT IS SO ORDERED THIS 30th DAY OF JANUARY, 2003 ,IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



\_\_\_\_\_/s/ Sandy Praeger

Sandy Praeger

Commissioner of Insurance

BY:

\_\_\_\_\_/s/ John W. Campbell

John W. Campbell

General Counsel

**Certificate of Service**

The undersigned hereby certifies that he served the above and foregoing Summary Order on this 30th day of January, 2003, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Stephen D. Smithers  
10307 Blue Ridge Boulevard  
Kansas City, MO 64134-1914

and

Stephen D. Smithers  
7711 O'Connor Drive #2108  
Round Rock, TX 78681.

\_ /s/ John S. Campbell \_\_\_\_\_  
John W. Campbell