

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

FINAL ORDER

Effective: 06/30/03

In the Matter of the Kansas Nonresident)	
Insurance Agent's License of)	Docket No. 3163-SO
SHAUNA L. DOWNING)	

SUMMARY ORDER

(Pursuant to K.S.A. 2002 Supp. 40-4909 and K.S.A. 77-537)

Pursuant to authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 2002 Supp. 40-4909, the Commissioner hereby revokes the resident agent's license of Shauna L. Downing ("Downing") 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 Downing is licensed as a resident agent to transact the business of insurance in the State of Kansas and has been so licensed since March 24, 2003. KID records indicate a current legal and mailing address of 720 North Street, Atchison, KS 66002.
2. KID records further indicate that Downing submitted a "clean" application, denying any criminal conviction or current criminal charges, dated March 17, 2003.
3. Downing signed the application under the certification and attestation, which stated in relevant part, "I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties."

4. A Kansas Bureau of Investigation (“KBI”) criminal history report disclosed that Downing was arrested on August 5, 2002, on bad check charges.

5. By letter dated April 3, 2003, the KID advised Downing of the report and requested details of the charge by April 17, 2003.

6. On May 5, 2003, the KID sent a second letter demanding response by May 19, 2003.

7. To date, Downing has not responded.

Applicable Law

8. K.S.A. 2002 Supp. 40-4909(a) provides, in relevant part:

“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 . . . (2) Violated . . . (b) any subpoena or order of the commissioner; . . . (3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud . . . [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.”

9. 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. 2002 Supp. 40-4909(b).

Conclusions of Law

10. The Commissioner has jurisdiction over Downing and the subject matter of this proceeding, and such proceeding is held in the public interest.

11. Based upon the KBI report and Downing’s failure to respond with information to the contrary, the Commissioner finds that Downing had an unresolved criminal charge against her at the time she applied for a Kansas license and failed to disclose the charge on her application for a license. Absent information regarding the charge, the Commissioner has no

choice but to construe the facts against her and find that she has pending criminal charges alleging conduct that is material to her application for a Kansas resident agent's insurance license, omitted that information from her application, swore to the completeness and accuracy of the application, and declined an opportunity to make complete disclosure. The Commissioner finds that Downing's license should be revoked as a consequence of a material misrepresentation in her application.

12. In addition, the Commissioner finds that Downing's failure or refusal to respond to the KID's demand for additional information, despite notice that failure to respond could result in action against her license, was a violation of the Commissioner's order.

13. Beyond having been charged with a crime, based upon the information contained in paragraph 4, the Commissioner finds that Downing has demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business.

14. Accordingly, the Commissioner finds that sufficient grounds exist for the revocation pursuant to K.S.A. 2002 Supp. 40-4909(a) of the resident insurance agent's license of Shauna L. Downing.

15. In addition, the Commissioner finds that the insurable interests of the public are not properly served under the resident insurance agent's license of Shauna L. Downing, and the license should be revoked pursuant to K.S.A. 2002 Supp. 40-4909(b).

16. 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 Shauna L. Downing.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE
THAT the Kansas resident insurance agent's license of Shauna L. Downing is hereby
REVOKED.

Notice and Opportunity for Hearing

Shauna L. Downing, 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:

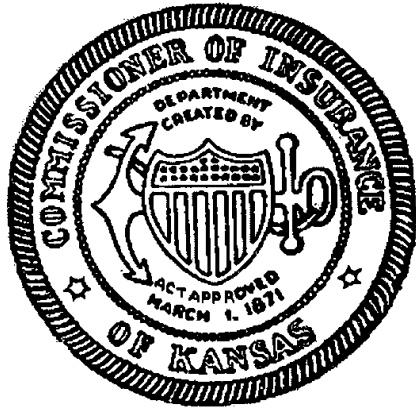
John W. Campbell
General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, KS 66612

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 K.S.A. 2002 Supp. 40-4909(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. 9th St., Topeka, KS 66612.

IT IS SO ORDERED THIS 10th DAY OF JUNE, 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 10th day of June, 2003, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Shauna L. Downing
720 North Street
Atchison, KS 66602

_____/s/ John W. Campbell_____
John W. Campbell