

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

**FINAL ORDER**

Effective: 08/15/03

In the Matter of the Kansas Resident	)	
Insurance Agent's License of	)	Docket No. 3188-SO
CHARLES N. FITZHUGH, III	)	

**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 Charles N. Fitzhugh, III, ("Fitzhugh") by way of Summary Order as provided by K.S.A. 77-537.

**Findings of Fact**

1. Records maintained by the Kansas Insurance Department ("KID") indicate that Fitzhugh is licensed as a resident agent to transact the business of insurance in the State of Kansas. KID records further indicate a legal and mailing address of 712 North 13<sup>th</sup> Street Terrace, Apartment D, Leavenworth, Kansas, 66048.

2. United American Insurance Company notified KID that it had terminated Fitzhugh's appointment "due to improper solicitation of applications for insurance."

3. The company supplied supporting documents to establish that Fitzhugh signed and submitted applications for life insurance on his grandfather, who had no knowledge of the application, and his grandmother, who was deceased.

4. In response to a KID inquiry, Fitzhugh admitted submitting the applications in order to obtain the commissions during a time of financial hardship, then withdrawing them and repaying the commissions within a week.

**Applicable Law**

5. 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: (A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder; . . . (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. . . . (10) Forged another person’s name to an application for insurance or to any document related to an insurance transaction. . . .” K.S.A. 2002 Supp. 40-4909(a).

6. “Any solicitor, agent, examining physician or other person who shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for life insurance, or who shall make any such statement for the purpose of obtaining any fee, commission, money or benefits from any company transacting business under this act shall be deemed guilty of a misdemeanor . . . .” K.S.A. 40-417.

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. 2002 Supp. 40-4909(b).

### **Conclusions of Law**

8. The Commissioner has jurisdiction over Fitzhugh as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

9. The Commissioner finds that good cause exists to revoke Fitzhugh’s insurance agent’s license in that Fitzhugh has admitted to forging applications for insurance, and the documents supplied by the company demonstrate that Fitzhugh also obtained and submitted a voided check to facilitate electronic premium payments from his grandfather’s account without his grandfather’s authorization.

10. The Commissioner finds that good cause exists to revoke Fitzhugh’s license in that his conduct constitutes a fraudulent or dishonest practice and demonstrates untrustworthiness and financial irresponsibility in the conduct of business.

11. The Commissioner further finds that Fitzhugh submitted false and fraudulent applications for life insurance for the purpose of obtaining the commissions and that such conduct violates K.S.A. 40-417 whether Fitzhugh intended to keep the commissions or merely obtain the benefit of their temporary use.

12. The Commissioner concludes that Fitzhugh's license should be revoked without delay for the protection of the insurable interests of the public.

13. 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 Charles N. Fitzhugh, III.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT** the Kansas resident insurance agent's license of Charles N. Fitzhugh, III, is hereby **REVOKED.**

**Notice and Opportunity for Hearing**

Charles N. Fitzhugh, III, 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 K.S.A. 40-4909(f). Costs shall

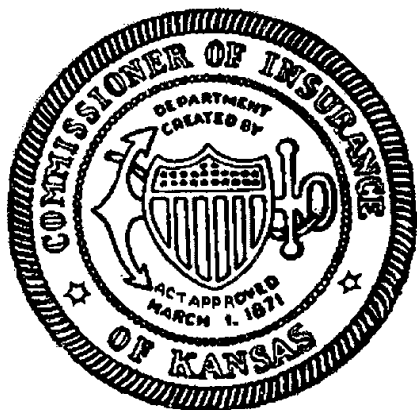
include witness fees, mileage allowances, any costs associated with the reproduction of documents which become part of the hearing record, and the expense of making a record of the hearing.

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 Final Order will constitute final agency action in this matter.

In the event the Petitioner files a petition for judicial review, the agency officer 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 66612-1678.

**IT IS SO ORDERED THIS 28<sup>th</sup> DAY OF JULY, 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 \_28<sup>th</sup>\_ day of July, 2003, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Charles N. Fitzhugh, III  
712 North 13<sup>th</sup> Street Terrace, Apt. D  
Leavenworth, KS 66048

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