

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

FINAL ORDER

Effective: 06/30/03

In the Matter of the Kansas Resident)	
Insurance Agent's License of)	Docket No. 3168-SO
PHYLLIS J. HOOVER)	

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 Phyllis J. Hoover ("Hoover") 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 Hoover is licensed as a resident agent to transact the business of insurance in the State of Kansas and has been so licensed since October 23, 1990. KID records further indicate a legal and mailing address of 401 S. Normandy, Olathe, KS 66061.

Wagner Construction Performance Bond

2. By letter dated March 26, 2003, Terri Gravely-Zalonis, President of Goodman Gravley Insurance Source advised the KID that Hoover had resigned after a potential claim on a construction bond revealed that the bond had been forged.

3. According to Gravely-Zalonis, Hoover wrote the performance bond for \$822,518.40 for Wagner Construction. The bond was purportedly issued by "Acstar Surety" through the broker Universal Service Agency. ACSTAR Insurance Company confirmed that the bond was "completely bogus." The bond was signed with the name of a woman who worked for the broker, but the name was misspelled, and the broker confirmed that the signature was not

hers. According to Gravely-Zalonis, the seal on the bond belonged to Aamco, an Allied Insurance Company, a company for which Goodman-Gravely has power of attorney and a seal.

4. In her emailed resignation, Hoover called the Wagner bond “a mess” and suggested that she “did it” because the pressure from the insured and his customer to obtain the bond was too great.

Eker Professional Liability

5. In the matter of a professional liability policy, the consumer began discussion with Hoover on May 15, 2002, of finding a new carrier and hand delivered one month’s premium on June 27, 2002, for coverage with Gulf Insurance Company to be effective on July 1, 2002.

6. The consumer had not yet received the policy on July 15, 2002. Hoover assured him that the company was behind but he was fully insured and would receive a policy within 30 days.

7. Over the next ten months, the consumer contacted Hoover an average of twice per month about the policy and was told either that the company was behind or that the policy had been mailed to the wrong address and would be sent again.

8. On February 10, 2003, the consumer paid the balance due on the policy in person and received a receipt.

9. On March 13, 2003, the consumer received a binder dated March 7, 2002, for coverage between July 1, 2002, and July 1, 2003.

10. On April 1, 2003, after Hoover’s resignation from Goodman-Gravely, agent Rick Walsh informed the consumer that the agency did not have an application or check on file and that the consumer would have to fill out a new application.

11. On April 8, 2003, Goodman-Gravely confirmed that the check did not go through their accounting department and suggested that the consumer stop payment.

Applicable Law

12. 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; . . . (4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business. . . . (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. 2002 Supp. 40-4909(a).

13. 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

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

15. The Commissioner finds that good cause exists to revoke Hoover’s insurance agent’s license pursuant to K.S.A. 2002 Supp. 40-4909(a) in that Hoover’s conduct in forging a performance bond constitutes a fraudulent or dishonest practice and her failure to obtain professional liability insurance for the consumer over a 10-month period demonstrates incompetence, untrustworthiness, and financial irresponsibility in the conduct of business.

16. The Commissioner concludes that Hoover’s license should be revoked pursuant to K.S.A. 2002 Supp. 40-4909(b) for the protection of the insurable interests of the public.

17. 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 Phyllis J. Hoover.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas resident insurance agent's license of Phyllis J. Hoover is hereby **REVOKED**.

Notice and Opportunity for Hearing

Phyllis J. Hoover, 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:

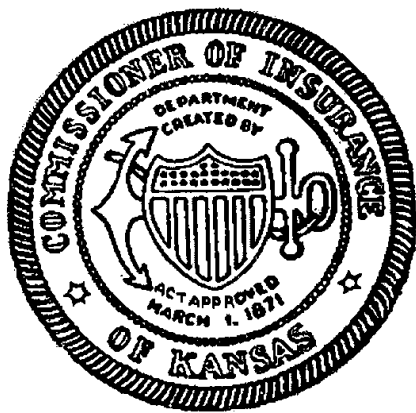
John W. Campbell
General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, KS 66612

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. 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. 9th St., Topeka, KS 66612-1678.

IT IS SO ORDERED THIS 12th 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 12th day of June, 2003, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Phyllis J. Hoover
401 S. Normandy
Olathe, KS 66061

/s/ John W. Campbell
John W. Campbell