

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

**FINAL ORDER**

Effective: 09/08/03

In the Matter of the Kansas Nonresident	)	
Insurance Agent's License of	)	Docket No. 3200-SO
PHILLIP E. OYLER	)	

**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 insurance agent's license of Phillip E. Oyler ("Oyler") 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 Oyler is licensed as a resident agent to transact the business of insurance in the State of Kansas and has been so licensed since March 22, 2002. KID records indicate a current legal and mailing address of 3348 County Road, Independence, KS 67301.
2. Oyler was granted a license despite a recent Oklahoma conviction of misdemeanor battery that was disclosed on his application and detailed in an attachment.
3. A subsequent criminal history check revealed that Oyler had also been convicted of misdemeanor battery in Independence, Kansas, in 1992.
4. The National Association of Insurance Commissioners ("NAIC") Regulatory Information Retrieval System ("RIRS") database reflects the following information: On March 16, 2003, Oyler was denied an insurance producer's license and assessed a monetary penalty in California as a result of criminal proceedings and a misdemeanor conviction.

5. By letter dated May 8, 2003, Kid requested that Oyler provide details of the action taken in California.

6. By letter dated July 1, 2003, KID made a second request for Oyler's explanation and gave notice of action to revoke Oyler's license if his response was not received by July 16, 2003.

7. To date, the KID has not received notice from Oyler of the disciplinary action or response to the letters and has not received returned letters or a change of address.

### **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: (A) Any provision of chapter 40 of the Kansas Statutes Annotated or any rule and regulation promulgated thereunder; (B) any subpoena or order of the commissioner; . . . (6) Been convicted of a misdemeanor or felony . . . [or] (9) Had an insurance agent license, or its equivalent, denied, suspended or revoked in any other state, district or territory."

9. Administrative regulations require that a person licensed in this state as an insurance agent shall, within 30 days of the occurrence, report enumerated events to the Commissioner. Among these events are criminal convictions, disciplinary action against the agent's license by the insurance regulatory official of any other state or territory, and a change of address. K.A.R. § 40-7-9.

10. 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**

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

12. Based upon the information contained in paragraphs 4 and 7 above, the Commissioner finds that Oyler has violated K.A.R. 40-7-9 by failing to report disciplinary action by the insurance regulatory agency of any other state.

13. Based upon the information contained in paragraphs 5, 6, and 7, the Commissioner finds Oyler has also violated K.A.R. 40-7-9 by failing to report a change of address within 30 days; alternatively, he has violated a KID order to provide the details of the California action.

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 Phillip E. Oyler.

15. Absent additional information from Oyler, the Commissioner is unable to determine if the California action is based on a conviction other than the two known to KID but adopts the California license bureau's implicit finding that the offense reflects negatively upon Oyler's fitness for a license.

16. Therefore, the Commissioner finds that the insurable interests of the public are not properly served under the nonresident insurance agent's license of Phillip E. Oyler, and the license should be revoked for the protection of the insurable interests of the public pursuant to K.S.A. 2002 Supp. 40-4909(b).

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 Phillip E. Oyler.

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

**Notice and Opportunity for Hearing**

Phillip E. Oyler, 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:

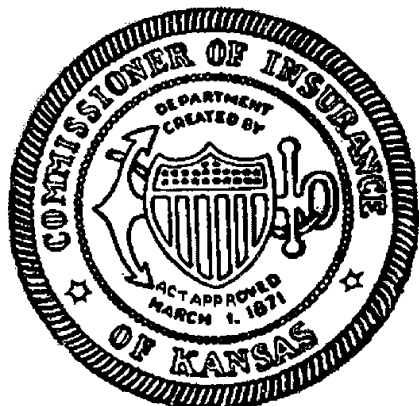
John W. Campbell  
General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, KS 66612

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. 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. 9<sup>th</sup> St., Topeka, KS 66612.

IT IS SO ORDERED THIS 19<sup>th</sup> DAY OF AUGUST, 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 19<sup>th</sup> day of August, 2003, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Phillip E. Oyler  
3348 County Road  
Independence, KS 67301

/s/ John W. Campbell