

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

**FINAL ORDER**

Effective: 11/10/03

In The Matter of the Kansas                     )  
Resident Agent's License of                    )  
DENNIS L. CARNAHAN                            )

Docket No. 3229-SO

**SUMMARY ORDER**

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 Dennis L. Carnahan ("Carnahan") 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 Carnahan is a resident of the State of Kansas, that Carnahan last reported a legal and mailing address of 2500 N. 80<sup>th</sup> St., Kansas City, Kansas 66109, and was licensed to transact the business of insurance as a resident insurance agent in the State of Kansas from September 22, 1993, until the license was terminated on January 12, 2002, for failure to comply with continuing education requirements.

2. On July 28, 2000, the KID received a complaint letter from Ed Klugman ("Klugman") indicating that Charles Mason ("Mason") had submitted to him insurance certificates that indicated that Mason was covered by commercial general liability insurance, workers compensation insurance, and employers liability insurance. Klugman further indicated by phone that he was confident that these certificates were false and that Mason did not have such coverage.

3. After further investigation, the KID determined that one certificate, employers liability and workers compensation, was issued by Carnahan through Farmers Insurance Group (“Farmers” or “the company”), and the other certificate was purportedly issued by Midwestern General Agency.

4. Further investigation revealed that Farmers Insurance policy #A0208-64-93 00 was a valid policy number, but such policy was issued to DBC Inc. dba Baskin-Robbins.

5. Bill Kobish with Midwestern General Agency indicated that binder #CLS 0580033 was issued to Christian Ezelle, not Charles Mason, and the agent for the policy was Carnahan.

6. On September 26, 2000, another certificate of insurance was received from Dave Shadwick reflecting commercial general liability insurance for Charles Mason underwritten by Truck Insurance Exchange with Carnahan as the agent.

7. On September 28, 2000, KID investigator Ed Mailen (“Mailen”) met with Carnahan at his office in Kansas City, Kansas. Carnahan admitted that he had created the certificates given to Klugman by Mason in an effort to “help out a good customer.” When asked about the certificate providing coverage through Truck Insurance Exchange, Carnahan denied any knowledge even though the certificate showed his name and signature and that it had been faxed from his office on June 5, 2000.

8. As a result of the allegations and investigation, Carnahan orally agreed to a one-year suspension of his insurance agent’s license, but the consent order was never finalized and the file was closed with no action after termination of Carnahan’s license.

9. According to KID records, Carnahan's appointment as an agent of Farmers, was terminated effective February 16, 2001.

10. On October 7, 2003, KID received an investigative report from Farmers' auditor Susan A. Gilbert-Holloway indicating that, during the months of February through June 2001, Carnahan received five checks totaling \$1,279.77 from the Wyandotte County District Court intended to be applied toward Farmers' subrogation interest in restitution payments. The report contained copies of the checks and endorsements indicating that all had been cashed/deposited into three personal accounts of Carnahan's, and the report stated that the company had no record that any of the disbursements had been applied toward the affected account.

11. According to the report and records contained in the report, the company tried unsuccessfully to contact Carnahan at his at his last known home address, 645 N. 78<sup>th</sup>, Kansas City, KS 66112, by Airborne Express on February 13, 2003, and at his last known mailing address, P.O. Box 9071, Kansas City, KS 66112, on March 12, 2003.

12. KID investigators have been unable to contact Carnahan.

#### **Applicable Law**

13. 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 . . . (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. . . (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....”

14. K.S.A. 40-2404(5) prohibits knowingly making, publishing, disseminating circulating or delivering to any person or placing before the public any false statement of material fact as to the financial condition of a person.

15. Administrative regulations require that a person licensed in this state as an insurance agent shall report a change of residence address within 30 days of the occurrence. K.A.R. § 40-7-9(f).

16. 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**

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

18. The Commissioner finds that both KID and the Company have made good faith efforts to locate Carnahan and that service upon Carnahan at his address of record is sufficient for this proceeding.

19. Based upon the information contained in paragraphs 2 through 7 above, the Commissioner finds that Carnahan knowingly delivered false statements of material fact as to the financial condition of his client by providing fraudulent proofs of insurance coverage, in violation of K.S.A. 40-2404(5).

20. Based upon the information contained in paragraphs 10 and 11 above, the Commissioner finds that Carnahan misappropriated or converted funds received in the course of business as agent of the Company.

21. Based upon the information contained in paragraphs 2 through 7, 10, and 11, the Commissioner finds that Carnahan used fraudulent or dishonest practices, and demonstrated untrustworthiness or financial irresponsibility in the conduct of business in this state.

22. Based upon the findings contained in paragraphs 19 through 21, the Commissioner finds that sufficient grounds exist for the revocation of the insurance agent's license of Dennis L. Carnahan pursuant to K.S.A. 2002 Supp. 40-4909(a)(2), (4), (7), and (8).

23. Based upon the information contained in paragraphs 19 through 21, the Commissioner further concludes that sufficient grounds exist for the revocation of the insurance agent's license of Dennis L. Carnahan pursuant to K.S.A. 2002 Supp. 40-4909(b) and that the license should be revoked without delay for the protection of the insurable interests of the public.

24. 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 Dennis L. Carnahan.

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

**Notice and Opportunity for Hearing**

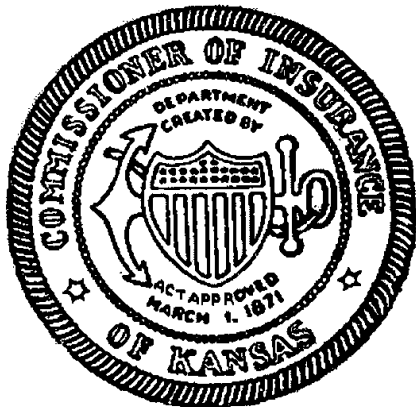
Dennis L. Carnahan, within fifteen (15) days of service of this Summary Order, may file with the KID written request for a hearing on this Summary Order, as provided by K.S.A. 77-542. In the event a hearing is requested, such request should be directed to:

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.

IT IS SO ORDERED THIS 22<sup>nd</sup> DAY OF OCTOBER, 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

**NOTICE:** 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.

**Certificate of Service**

The undersigned hereby certifies that she served the above and foregoing Summary Order on this 22<sup>nd</sup> day of October 2003, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Dennis L. Carnahan  
2500 N. 80<sup>th</sup> St.  
Kansas City, KS 66109

/s/ Brenda J. Clary  
Brenda J. Clary