

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

FINAL ORDER

Effective: 10/27/03

In the Matter of the Kansas Resident)	
Insurance Agent's License of)	Docket No. 3221-SO
DUSTIN D. McDONALD)	

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 Dustin D. McDonald ("McDonald") 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 McDonald is licensed as a resident agent to transact the business of insurance in the State of Kansas and has been so licensed since July 16, 2003. KID records indicate a current legal and mailing address of 1345 Vermont St. Apt. 3, Lawrence, KS 66046.
2. McDonald submitted a clean application, denying criminal history, for a Kansas license dated July 15, 2003.
3. By his signature on the application, McDonald certified that all information was true and complete and that he was aware that submitting false information or omitting material information is grounds for license revocation.

4. A subsequent criminal history check revealed that McDonald had been convicted of misdemeanor battery in Salina, Kansas, municipal court in 2000.

5. By letter dated August 11, 2003, KID requested that McDonald provide details of the conviction.

6. By letter dated August 26, 2003, KID made a second request for McDonald's explanation.

7. Both letters were returned September 5 marked "moved left no address."

8. To date, the KID has not received notice from McDonald of a change of address.

9. By letter of September 19, 2003, addressed to 501 Colorado, Apt. D-1, Lawrence, KS 66044, the KID again requested information about the conviction, advised of the requirement of notifying the department of address changes within 30 days, and demanded a response by October 3, 2003.

10. To date, the KID has received neither a response to the letter nor returned mail from the Colorado Street address.

Applicable Law

11. 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; . . . (3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud. . . [or] (6) Been convicted of a misdemeanor or felony."

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

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 McDonald and the subject matter of this proceeding, and such proceeding is held in the public interest.

15. Based upon the information contained in paragraph 4, the Commissioner finds that McDonald has been convicted of a misdemeanor.

16. Based upon the information contained in paragraphs 2 through 4 and 9 through 10 above, the Commissioner finds that McDonald has obtained a license through misrepresentation.

17. Based upon the information contained in paragraphs 5 through 8, the Commissioner also finds McDonald has violated K.A.R. 40-7-9(f) by failing to report a change of address within 30 days.

18. 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 Dustin D. McDonald.

19. Moreover, the Commissioner finds that the insurable interests of the public are not properly served under the resident insurance agent's license of Dustin D. McDonald, 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).

20. 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 Dustin D. McDonald.

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

Notice and Opportunity for Hearing

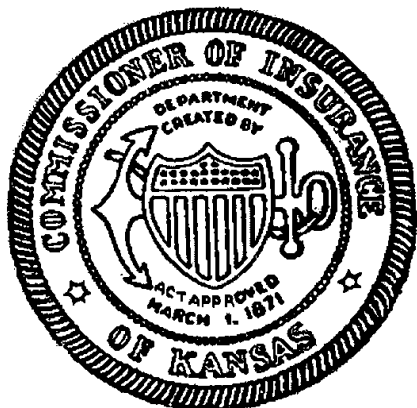
Dustin D. McDonald, within fifteen (15) days of service of this Summary Order, may file with the KID written request for a hearing on this Summary Order, as provided by K.S.A. 77-542. In the event a hearing is requested, such request should be directed to:

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.

IT IS SO ORDERED THIS 9th 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. 9th St., Topeka, KS 66612.

Certificate of Service

The undersigned hereby certifies that she served the above and foregoing Summary Order on this 9th day of October 2003, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Dustin D. McDonald
501 Colorado, Apt. D-1
Lawrence, KS 66044

/s/ Brenda J. Clary
Brenda J. Clary