

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

In the Matter of the Kansas Resident)	
Insurance Agent's License of)	Docket No. 3165-CO
GREGORY M. STRAND)	

CONSENT ORDER

The Kansas Insurance Department ("KID") and resident insurance agent Gregory M. Strand ("Strand") wish to resolve allegations of misconduct without formal adjudicative proceedings by entering into this consent order. Having been advised of his right to a hearing prior to the issuance of an order, Strand stipulates to the following facts, upon which the Commissioner of Insurance ("Commissioner") bases her conclusions of law and issues the order, and Strand voluntarily waives hearing and review of the order.

Facts

1. Strand is licensed as a resident agent to transact the business of insurance in the State of Kansas and has a current legal and mailing address of 11401 W. 114th Street, Overland Park, KS 66210.
2. Prior to November 30, 2002, TRG Marketing ("TRG") offered a health benefits plan that it promoted as "an ERISA product" not subject to state regulation.
3. TRG was a multiple employer welfare arrangement ("MEWA") required to file an M-1 annual report with the United States Department of Labor ("DOL") and subject to the dual jurisdiction of the DOL and state regulators pursuant to ERISA, 29 U.S.C. § 1001 *et seq.*
4. TRG did not file its M-1 with the DOL and was not authorized as an insurance company in Kansas.

5. Following orders in several states to cease and desist doing unauthorized insurance business, the company ceased its business nationwide as of November 30, 2002, with little or no notice, and subsequently ceased paying outstanding claims.

6. Strand had placed the employee health insurance business of Leavenworth Automotive with TRG after Leavenworth Automotive's prior carrier raised its premium rates and the owners sought lower premium rates, and Leavenworth Automotive's coverage was provided through TRG at the time TRG ceased paying claims.

7. Gary and Sandy Davis, owners and operators of Leavenworth Automotive, had family health care coverage through TRG. The Davis family had outstanding claims at the time TRG terminated their coverage, and the claims have never been paid.

8. Strand, to assist another agent, placed Jacqueline Gatton and her husband with TRG.

9. At the time TRG ceased doing business, Gatton's health care providers had submitted claims for services related to and including an October 24, 2002, surgery, and those claims have never been paid.

10. Strand relied entirely upon advertisements and the representations of marketing firms to conclude that TRG was "a solid and safe product."

11. Strand did not verify with the KID or the DOL that TRG was qualified under federal law to operate in Kansas without state authorization.

12. Strand admits that the consumers were seeking health insurance coverage.

13. Strand admits that he did not know the full range and extent of the risks of participation in a program such as the one offered by TRG and did not fully disclose to his clients the risks of which he was aware.

Applicable Law

14. K.S.A. 2002 Supp. 40-4909(a) provides, in relevant part:

“The commissioner may suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the applicant or license holder has . . . (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.”

15. Making any statement that misrepresents the benefits, advantages, conditions or terms of any insurance policy is a violation of K.S.A. 40-2404. K.S.A. 2002 Supp. 40-2404(1)(a).

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. 2001 Supp. 40-4909(b).

17. In lieu of taking any action under subsection (a) of K.S.A. 40-4909, the Commissioner may censure the agent or impose an administrative penalty of up to \$500 for each violation or \$1000 for each violation if the agent knew or should have known that the violative act could give rise to disciplinary action. K.S.A. 2002 Supp. 40-4909(h).

Conclusions of Law

18. Based upon the agreed facts and the applicable law, the Commissioner finds that Strand placed two consumers in an unauthorized MEWA.

19. Based on the agreed facts, the Commissioner finds that Strand failed to research the program adequately and, in reliance upon the representations of TRG’s advertising and marketing, represented the program as a safe, affordable source of health insurance.

20. The Commissioner finds that the TRG program is, in substance, insurance.

21. The Commissioner finds that Strand made statements that misrepresented the benefits, advantages, conditions or terms of the program.

22. Accordingly, the Commissioner finds that sufficient grounds exist to suspend or revoke the resident insurance agent's license of Gregory M. Strand.

23. However, the Commissioner further finds that Strand acted without intent to misrepresent the product and lacked full awareness of potential for harm to the consumers.

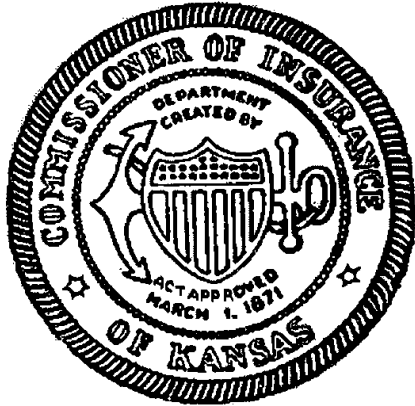
IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

Gregory M. Strand shall pay to the Kansas Insurance Department an administrative penalty of \$500 per violation found herein, or \$1000, in four payments of \$250 each. Payments shall be made on or before June 15, July 15, August 15, and September 15, the entire sum to be paid by September 15, 2003, or Strand's insurance agent's license will be suspended until such time as this order and any additional sanction for failure to comply is satisfied in full.

This order shall be signed by the Commissioner or her designee after full payment of the penalty and filed of record with the KID. This order shall constitute a final agency action on the date it is signed by the Commissioner or her designee.

In the event that Gregory M. Strand desires to seek judicial review of this order, the person designated to receive service of process pursuant to K.S.A. 77-613(e) is John W. Campbell, General Counsel, Kansas Insurance Department, 420 S.W. 9th Street, Topeka, KS 66612.

IT IS SO ORDERED THIS 17TH DAY OF SEPTEMBER, 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

/s/ Gregory M. Strand _____ 06/09/03_
Gregory M. Strand Date

Submitted and approved by:

/s/ Brenda J. Clary _____
Brenda J. Clary
Staff Attorney

Certificate of Service

The undersigned hereby certifies that she served the above and foregoing Summary Order on this _17th_ day of September, 2003 by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Gregory M. Strand
11401 W. 114th Street
Overland Park, KS 66210

_ /s/ Brenda J. Clary _____
Brenda J. Clary
Staff Attorney