

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

FINAL ORDER

Effective: 04/26/04

In the Matter of the Kansas Nonresident)
Insurance Agent's License of)
FREDERICK A. BARTON)

Docket No. 3301-SO

SUMMARY ORDER

(Pursuant to K.S.A. 2003 Supp. 40-4909 and K.S.A. 77-537)

Pursuant to authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 2003 Supp. 40-4909, the Commissioner hereby revokes the nonresident agent's license of Frederick A. Barton ("Barton") 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 Barton is licensed as a nonresident agent to transact the business of insurance in the State of Kansas and has been so licensed since March 20, 2003.
2. KID records further indicate a legal and mailing address of 11416 N. Century Lane, Scottsdale, AZ 85254.
3. In his application for Kansas nonresident insurance agent's license, Barton denied having felony, misdemeanor, or military convictions or charges pending.
4. The National Association of Insurance Commissioners ("NAIC") Regulatory Information Retrieval System ("RIRS") database reflects the following information: Barton was denied producer licenses in North Carolina, effective December 16, 2003, and Kentucky, effective June 23, 2003, as a result of criminal history and failure to respond.
5. By letter dated February 13, 2004, the KID attempted to contact Barton for details of the regulatory actions and his criminal history.

6. By letter of March 2, 2004, KID again requested details of the regulatory actions and criminal history and advised Barton that if he failed to reply by March 16, 2004, action would be initiated to revoke his Kansas nonresident insurance agent's license.

7. To date, KID has not received a response from Barton, returned mail, or notice of a change of address, and Barton has not otherwise reported criminal history to KID.

Applicable Law

8. K.S.A. 2003 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: (1) Provided incorrect, misleading, incomplete or untrue information in the license application. (2) Violated: (A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder . . . (C) any insurance law or regulation of another state . . . (6) been convicted of a misdemeanor or felony . . . (9) Had an insurance agent license, or its equivalent, denied, suspended or revoked in any other state, district or territory . . .” K.S.A. 2003 Supp. 40-4909(a).

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 name or address. K.A.R. § 40-7-9.

10. The Commissioner may impose a monetary penalty for failure to respond to a proper inquiry. K.S.A. 40-2,125 (b).

11. 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. 2003 Supp. 40-4909(b).

Conclusions of Law

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

13. Based on the information contained in paragraph 4 above, the Commissioner finds that Barton has criminal history that he was obligated to disclose on his application for Kansas nonresident insurance agent's license and/or report to KID pursuant to K.A.R. §40-7-9.

14. Based on the information summarized in paragraphs 3 and 4 above, the Commissioner finds that Barton either failed to disclose established criminal history on his application for Kansas nonresident insurance agent's license or acquired criminal history after submitting his application and failed to report it to KID as required by K.A.R. §40-7-9.

15. Based on the information contained in paragraph 4, the Commissioner finds that Barton has been denied an insurance agent's license in another state.

16. The Commissioner also finds that Barton has failed to respond to a proper inquiry.

17. The Commissioner concludes that sufficient grounds exist for the revocation of the insurance agent's license of Frederick A. Barton pursuant to K.S.A. 2003 Supp. 40-4909(a).

18. The Commissioner concludes that Barton's license may be revoked pursuant to K.S.A. 2003 Supp. 40-4909(b) for the protection of the insurable interests of the public because Barton has failed to respond to a proper inquiry from KID, demonstrating a disregard for the regulatory authority of the Commissioner and a lack of trustworthiness in the conduct of business.

19. Accordingly, the Commissioner finds that Barton's Kansas nonresident insurance agent's license should be revoked.

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 Frederick A. Barton.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas nonresident insurance agent's license of **Frederick A. Barton is hereby **REVOKED**.**

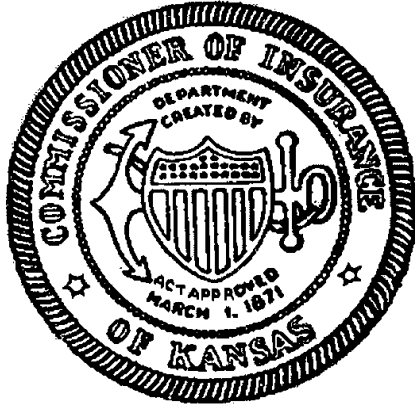
Notice and Opportunity for Hearing

Frederick A. Barton, 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.

IT IS SO ORDERED THIS 6th DAY OF APRIL 2004, 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 a true and correct copy of the above and foregoing Summary Order on this 6th day of April 2004, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Frederick A. Barton
11416 N. Century Lane
Scottsdale, AZ 85254

/s/ Brenda J. Clary _____
Brenda J. Clary