

**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)
EDWARD L. BRUNT, III) Docket No. 3296-SO

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. 2003 Supp. 40-4909, the Commissioner hereby revokes the resident agent's license of Edward L. Brunt, III ("Brunt"), 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 Brunt is licensed as a resident agent to transact the business of insurance in the State of Kansas and has been so licensed since December 10, 2003. KID records indicate a current legal and mailing address of 211 Mount Hope Court #12, Lawrence, KS 66044.
2. KID records further indicate that Brunt submitted a "clean" application, denying any criminal conviction or current criminal charges, dated November 25, 2003.
3. Item 35, question 1, of the application asks, "Have you ever been convicted of, or are you currently charged with, committing a crime, whether of not adjudication was withheld?"
4. Question 1 explicitly requires disclosure of any misdemeanor, felony, or military offense other than "misdemeanor traffic citations and juvenile offenses" and requires a written statement about each incident, a certified copy of the charging document, and a certified copy of the document that demonstrates resolution of the charges.

5. The application packet includes Guidelines for Answering Question 1.
6. The Guidelines clarify that minor traffic violations need not be disclosed and list traffic-related offenses that must be disclosed, including driving while suspended and driving while intoxicated or under the influence of alcohol or drugs.
7. Brunt signed the application under the certification and attestation, which stated in relevant part, “I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.”
8. KID issued a license based on the “clean application” effective December 10, 2003.
9. KID subsequently obtained a Kansas Bureau of Investigation (“KBI”) criminal history report for Brunt that disclosed an April 12, 2002, misdemeanor conviction of violation of K.S.A. 8-260(a)(1) in the Lawrence Municipal Court, Case Number 022003211, and a January 31, 2003, arrest and pending charges of driving under the influence of alcohol or drugs (“DUI”), in violation of K.S.A. 8-1567, and driving while cancelled, suspended, or revoked, in violation of K.S.A. 8-262.
10. K.S.A. 8-260(a)(1) prohibits display or possession of “any fictitious or fraudulently altered driver’s license.”
11. By letter dated December 19, 2003, KID requested information on the disposition of the DUI charge.

12. By letter dated February 20, 2004, KID renewed the request and, in addition, requested all information required by the application and any undisclosed negative history by March 8, 2004.

13. By facsimile message dated 3/5/04, stamped June 4, 2000, at 00:43, and received in the KID agent licensing division on March 15, 2004, Brunt responded as follows: "I am responding in regards to the disposition of my DUI case. I was found guilty of the charge. If you have any questions for me please contact me."

14. To date, KID has received no other information from Brunt.

Applicable Law

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

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. 2003 Supp. 40-4909(b).

Conclusions of Law

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

18. Based upon the facts contained in paragraph 9 above, the Commissioner finds that Brunt has been convicted of three misdemeanors, including one that appears to have involved fraud or deception.

19. Based upon the facts contained in paragraphs 2 through 7 above, the Commissioner concludes that Brunt provided incorrect, misleading, incomplete or untrue information in the license application.

20. Based upon the facts contained in paragraphs 2 through 8 above, the Commissioner concludes that Brunt obtained his Kansas license through a misrepresentation by denying any criminal convictions.

21. The Commissioner further finds that the misrepresentation was material because a conviction of the offense of driving while suspended or revoked indicates a disregard for regulatory authority and use of a “fictitious or fraudulently altered driver’s license” is a crime of dishonesty.

22. The Commissioner concludes that KID would have been unlikely to have issued a license to Brunt had Brunt disclosed the facts of his convictions on his application absent compelling mitigating circumstances.

23. Based upon the existence and nature of the offenses and the material omission from the application, the Commissioner concludes that good cause exists pursuant to K.S.A. 2003 Supp 40-4909(a) to revoke the Kansas resident insurance agent’s license of Edward L. Brunt, III.

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 Edward L. Brunt, III.

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

Notice and Opportunity for Hearing

Edward L. Brunt, III, 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:

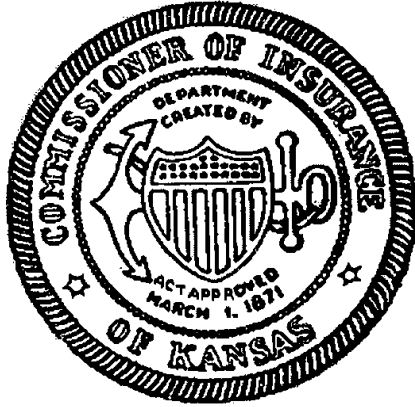
John W. Campbell
General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, KS 66612

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. 2003 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. 9th St., Topeka, KS 66612.

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 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:

Edward L. Brunt, III
211 Mount Hope Court #12
Lawrence, KS 66044

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