

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

FINAL ORDER

Effective: 01/26/04

In the Matter of the Kansas Nonresident)
Insurance Agent's License of)
ADAM L. JEFFERSON)

Docket No. 3258-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. 2002 Supp. 40-4909, the Commissioner hereby revokes the resident agent's license of Adam L. Jefferson ("Jefferson") 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 Jefferson is licensed as a resident agent to transact the business of insurance in the State of Kansas and has been so licensed since December 4, 2003. KID records indicate a current legal and mailing address of 117 West 11th Avenue, Apt. B, Hutchinson, KS 67501.
2. KID records further indicate that Jefferson submitted a "clean" application, denying any criminal conviction or current criminal charges, dated November 20, 2003.
3. Jefferson 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."

4. KID issued a license based on the “clean application” effective December 4, 2003.

5. KID subsequently obtained a Kansas Bureau of Investigation (“KBI”) criminal history report for Jefferson that disclosed a total of five misdemeanor convictions and a pending charge of aggravated battery, a severity level 4 felony. The convictions were as follows: November 13, 1995, possession of simulated controlled substances or drug paraphernalia; May 31, 1996, criminal damage to property and battery; and August 21, 1997, battery and disorderly conduct.

6. By letter dated December 17, 2003, KID requested additional details of the offenses, particularly the pending charge, by December 31, 2003.

7. By letter dated December 22, 2003, Jefferson stated that omission of the criminal history from his application was “an unintentional over sight [sic]” and attributed the arrests in 1995, 1996, and 1997 to “recklessness, lack of self control, and immaturity.” He attributed the July 26, 2003, arrest for aggravated battery to the actions of another person. He included a journal entry reflecting that he was sentenced on December 16, 2003, to a six-month suspended sentence upon a plea of guilty to an amended charge of misdemeanor battery in the 2003 case.

Applicable Law

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

9. “Perjury is intentionally, knowingly and falsely . . . subscribing as true and correct under penalty of perjury any material matter in any declaration, verification, certificate or statement as permitted by K.S.A. 53-601 and amendments thereto.” K.S.A. 2002 Supp. 21-3805(a)(2). Such perjury is a severity level 9, nonperson felony.

10. 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

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

12. Based upon the facts contained in paragraphs 5 and 7 above, the Commissioner finds that Jefferson has been convicted of six misdemeanors over a period of just over eight years, and the most recent conviction was in a case pending at the time of his application.

13. The Commissioner concludes that Jefferson’s license may be revoked solely because Jefferson has been convicted of a misdemeanor.

14. While any of the convictions alone would not reflect adversely on Jefferson’s fitness to hold an insurance agent’s license, the Commissioner finds that a pattern of “recklessness, lack of self control, and immaturity” continuing into the year of Jefferson’s application calls into question Jefferson’s competence and trustworthiness.

15. Therefore, the Commissioner finds that Jefferson’s criminal history was material to his application for an insurance agent’s license and that KID would have been unlikely to have issued a license to Jefferson had Jefferson disclosed the facts of his convictions on his

application and concludes that the license may be revoked because it was obtained through misrepresentation.

16. Finally, based upon the material omission from his application and his explanation of the omission, the Commissioner finds that Jefferson has used dishonest practices and demonstrated incompetence or untrustworthiness in the conduct of business and continues to do so.

17. The Commissioner concludes that good cause exists pursuant to K.S.A. 2002 Supp 40-4909(a) to revoke the Kansas resident insurance agent's license of Adam L. Jefferson.

18. In addition, the Commissioner finds that the insurable interests of the public are not properly served under the resident insurance agent's license of Adam L. Jefferson and the license should be revoked pursuant to K.S.A. 2002 Supp. 40-4909(b).

19. 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 Adam L. Jefferson.

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

Notice and Opportunity for Hearing

Adam L. Jefferson, 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 6th DAY OF JANUARY 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 January 2004, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Adam L. Jefferson
117 West 11th Avenue, Apt. B
Hutchinson, KS 67501

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