

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

**FINAL ORDER**

Effective: 03/26/04

In the Matter of the Kansas Nonresident )  
Insurance Agent's License of ) Docket No. 3290-SO  
TIM G. MOSLEY )

**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 nonresident agent's license of Tim G. Mosley ("Mosley") 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 Mosley is licensed as a nonresident agent to transact the business of insurance in the State of Kansas, and has been so licensed since August 26, 2003. KID records further indicate a legal address of 1 Locust Avenue, San Rafael, California, and mailing address of 1104 Lincoln Avenue, San Rafael, CA 94901.
2. Mosley was charged with six tax-related offenses in Case Number 02-CR-327-ALL on October 23, 2002, in the United States District Court for the Northern District of California.
3. Mosley entered a plea of guilty on all counts on December 5, 2002, and was sentenced on June 19, 2003.
4. Mosely filed a notice of appeal from the district court judgment on July 11, 2003.
5. On or about August 25, 2003, KID received Mosley's application for a Kansas nonresident insurance agent's license.

6. Mosley submitted a “clean” application for license, denying any pending misdemeanor or felony charges or prior misdemeanor or felony convictions, dated August 10, 2003.

7. In signing the application, Mosley certified that all of the information was true and complete and that he was “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 could subject him to civil or criminal penalties.

8. Mosley’s appeal, case number 03-10388, was dismissed as “frivolous” on February 24, 2004.

9. The National Association of Insurance Commissioners (“NAIC”) Producer database reflects the following information: Mosley’s California insurance producer’s license was revoked, effective February 23, 2004.

### **Applicable Law**

10. 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 by misrepresentation or fraud. . . . (6) Been convicted of a misdemeanor or felony. . . . (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) 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).

11. K.S.A. 2003 Supp. 40-4906 and 4908 provide for issuance of a nonresident agent’s license in reliance upon the agent’s valid license in the agent’s home state.

12. 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**

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

14. The Commissioner finds that Mosley has had an insurance agent's license revoked in his home state of California.

15. The Commissioner finds that Mosley's Kansas license may be revoked solely because Mosley has had an agent's license revoked in another state.

16. The Commissioner finds, in addition, that Mosley's Kansas license may be revoked because it is based on reciprocity, and Mosley's license in his home state of California has been revoked.

17. The Commissioner finds that Mosley's license may be revoked solely because Mosley has been convicted of a misdemeanor or felony.

18. The Commissioner further finds that Mosley's license may be revoked because his crimes of conviction establish that he has used fraudulent, coercive, or dishonest practices, or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business.

19. The Commissioner also finds that Mosley's Kansas license may be revoked solely because Mosley obtained his license by falsely representing that he had never been convicted of a misdemeanor or felony and had no pending charges.

20. Accordingly, the Commissioner concludes that sufficient grounds exist for the revocation of the insurance agent's license of Tim G. Mosley pursuant to K.S.A. 2003 Supp. 40-4909(a).

21. In addition, the Commissioner finds that the insurance agent's license of Tim G. Mosley should be revoked without delay for the protection of the insurable interests of the public pursuant to K.S.A. 2003 Supp. 40-4909(b).

22. 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 Tim G. Mosley.

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

**Notice and Opportunity for Hearing**

Tim G. Mosley, 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. 9<sup>th</sup> Street, Topeka, KS 66612.

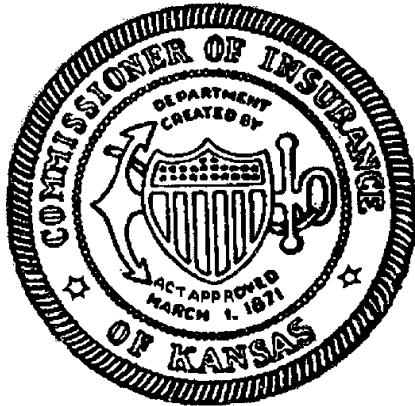
Any costs incurred as a result of conducting any administrative hearing shall be assessed against the agent who is the subject of the hearing as provided by K.S.A. 40-4909(f). Costs shall include witness fees, mileage allowances, any costs associated with the reproduction of

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 8th DAY OF MARCH 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:** In the event the Petitioner files a petition for judicial review, the agency officer 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. 9<sup>th</sup> St., Topeka, KS 66612-1678.

**Certificate of Service**

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing **Summary Order** on this 8th day of March 2004, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Tim G. Mosley  
1104 Lincoln Avenue  
San Rafael, CA 94901

/s/ Brenda J. Clary \_\_\_\_\_  
Brenda J. Clary