

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

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| FINAL ORDER |
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| Effective: 8-2-04 |
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In the Matter of the Kansas Nonresident)
Insurance Agent's License of)
MIRIAM S. BENSON)

Docket No. 3348-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 Respondent Miriam S. Benson 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 Respondent is licensed as a nonresident agent to transact the business of insurance in the State of Kansas, and has been so licensed since November 21, 2000. KID records further indicate a legal address of 1075 Pennsylvania Avenue, Apalachin, New York, and mailing address of 4700 Vestal Parkway East, Vestal, NY 13850.
2. KID records reflect that Respondent's license was issued based on a "clean" application that did not reflect criminal history or other history requiring additional inquiry.
3. The National Association of Insurance Commissioners ("NAIC") Regulatory Information Retrieval System ("RIRS") database reflects the following information: Respondent was denied a producer's license in North Carolina, effective April 24, 2004, as a result of failure to disclose criminal history on her license application and demonstrated lack of fitness or

trustworthiness, denied licenses in Kentucky, effective September 19, 2002, and Ohio, effective February 21, 2002, both as a result of criminal history.

4. By letter dated June 8, 2004, KID requested details of the denials and criminal history and an explanation for Respondent's omission of the conviction from her Kansas application.

5. In response, Respondent provided copies of the other states' orders and a letter describing the circumstances of the conviction.

6. The letter does not address omission of the conviction from Respondent's Kansas application or provide documentation of the charge, conviction, and sentence as required by the application.

Applicable Law

7. 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. . . . (6) Been convicted of a misdemeanor or felony . . . [or] (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).

8. 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

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

10. The Commissioner finds that Respondent has been convicted of a misdemeanor and, on her license application, denied having been convicted of any crime.

11. The Commissioner finds that Respondent has provided incomplete information in her license application .

12. Furthermore, the Commissioner finds that a conviction of theft, of any severity level and under any circumstances, while it may not be an absolute bar to licensure, is material to KID's consideration of an applicant's qualifications and fitness to hold an insurance agent's license.

13. Therefore, the Commissioner finds that Respondent obtained a Kansas nonresident insurance agent's license through a material misrepresentation on her license application.

14. The Commissioner finds that Respondent has had an agent's license or its equivalent denied in other states for the same material omission from the applications.

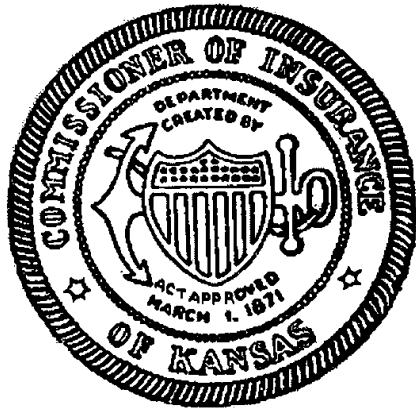
15. The Commissioner, therefore, concludes that good cause exists pursuant to K.S.A. 2003 Supp. 40-4909(a) to revoke Respondent's Kansas resident insurance agent's license.

16. In addition, the Commissioner finds that Respondent's insurance agent's license 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).

17. 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 Miriam S. Benson.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas nonresident insurance agent's license of Miriam S. Benson is hereby REVOKED.

IT IS SO ORDERED THIS 13th DAY OF JULY 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. 9th 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 **Notice** and **Summary Order** on this 13th day of July 2004, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Miriam S. Benson
4700 Vestal Parkway East
Vestal, NY 13850

/s/ Brenda J. Clary
Brenda J. Clary

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MIRIAM S. BENSON) Docket No. 3348-SO

NOTICE OF SUMMARY ORDER

Notice is hereby given that the attached Summary Order will become effective fifteen (15) days after service of this Notice unless Respondent files with the Kansas Insurance Department ("KID") a written request for a hearing, as provided by K.S.A. 77-542. In the event a hearing is requested, the attached summary order will serve to give notice of the allegations upon which KID bases its proposed action.

A request for hearing should be directed to John W. Campbell, General Counsel, Kansas Insurance Department, 420 S.W. 9th Street, Topeka, KS 66612.

Any costs of an administrative hearing may be assessed against an agent who is the subject of the hearing as provided by K.S.A. 40-4909(f).

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.

Dated this 13th day of July 2004.

_s/ Brenda J. Clary _____
Brenda J. Clary
Staff Attorney
Kansas Insurance Department