

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

In the Matter of the Kansas Resident            )  
Insurance Agent’s License of                    )     Docket No.    3252-SO  
ROBERT F. KASL                                    )

**CONSENT ORDER**

The Kansas Insurance Department (“KID”) and Respondent Kansas resident insurance agent Robert F. Kasl (“Kasl”) wish to resolve all allegations of agent misconduct by entering into this consent order. Pursuant to authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 2002 Supp. 40-4909, the Commissioner hereby imposes sanctions against the resident agent’s license of Robert F. Kasl by way of agreed order.

**Facts**

Having been advised of his right to a hearing prior to the issuance of an order, Kasl elects not to dispute the following facts:

1. Kasl is licensed as a resident agent to transact the business of insurance in the State of Kansas and has been so licensed since June 15, 1987.
2. Three consumer complaints filed against Kasl between April 2003 and September 2003 allege that Kasl failed to take action necessary to obtain and maintain insurance coverage the consumers requested yet led or knowingly allowed them to believe they had coverage.
3. In file number 107010, Larry and Joan Brown allege that they applied for long-term care (“LTC”) insurance through Kasl in 1997, with premiums to be paid from an annuity they applied for at the same time, but they discovered in March 2003 that no long-term care policy had been issued.

4. In file number 109506, Kyle D. Cyr alleges that Kasl issued a binder for homeowner's coverage through Farm Bureau, assuring Mr. Cyr that the property was fully insurable, and failed to notify him of a policy change required by the company after inspection of the property.

5. KID alleges that Kasl responded to an inquiry dated July 21 regarding Cyr's initial complaint but failed to respond to a second inquiry, dated September 10, 2003, regarding Cyr's additional, supplemental complaint.

6. In file number 110930, Arthur Goppert alleges that Kasl agreed to obtain a sorghum policy for him in December 2002, and assured him in January that he would "get it done," but Goppert learned in August 2003 that Kasl had not written the policy.

7. Kasl's response to KID's inquiry regarding the Goppert complaint said *inter alia* that Kasl did not remember Goppert's asking for crop insurance on his grain sorghum, that the crop looked good, and that Goppert would have had time to obtain insurance on spring crops from someone else after Kasl left Farm Bureau and the agency in February 2003.

8. According to Bradley Chatfield, Kasl failed to submit a premium check for coverage on harvesting equipment, written by Roger Benyshek on July 22, 2002, and stated after the harvest season that he had destroyed the check since there were no claims.

9. On December 16, 2003, KID served Kasl with a Summary Order proposing to revoke his insurance agent's license, and Kasl timely requested a hearing.

10. On or about February 20, 2004, Respondent retained counsel to represent him in this matter, and counsel promptly sought a continuance in order to prepare a response.

11. In exchange for a continuance, Kasl agreed to a suspension of his Kansas resident insurance agent's license during the pendency of this action, and an order granting the continuance and suspending his license was issued and served on February 24, 2004.

12. On or about March 9, 2004, Kasl and AFLAC district sales coordinator Jody K. Hipp met with Larry and Joan Brown and completed an application for long-term care insurance on behalf of Larry Brown.

13. Kasl has agreed to negotiate in good faith to resolve claims by the Browns, Cyr, and/or Goppert, either personally or through errors and omissions insurance ("E & O") and to maintain E & O coverage in at least the amount required by K.S.A. 40-241 throughout a probationary period, notwithstanding any reduction or elimination of the statutory requirement.

14. Kansas resident agent Wade B. Jensik has agreed to supervise Kasl during a probationary period and promptly report any violations of insurance regulatory law or this order to the Kansas Insurance Department and will enter into a written agreement with Kasl to that effect.

15. KID and Kasl stipulate and agree that any violation of statutory or regulatory law or of the Commissioner's order committed during a probationary period may be deemed sufficient cause for revocation of the license solely upon proof of the violation.

#### **Applicable Law**

16. 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 . . . (2) Violated: (A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder; (B) any subpoena or order of the commissioner . . . (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. . . ."

17. The commissioner may censure the licensee or impose an administrative penalty of \$500 per violation up to a maximum of \$2500 for the same violation occurring within six calendar months from the date of the original violation, or \$1000 for a knowing violation up to \$5000 for the same violation within six calendar months, in lieu of taking any action under subsection (a). K.S.A. 2003 Supp. 40-4909(h).

18. The Uniform Insurance Agents Licensing Act provides, “[I]t shall be unlawful for any person to sell, solicit or negotiate any insurance within this state unless such person has been issued a license as an insurance agent in accordance with this act.” K.S.A. 2003 Supp. 40-4905(a).

19. 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**

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

21. By entering into this agreed order, Kasl has waived his statutory right to an evidentiary hearing to determine facts, consented to the Commissioner’s conclusions of law and order, and waived any statutory right to judicial review.

22. Based on the facts contained in paragraphs 2 through 8 and 11 through 12 above, the Commissioner finds that good cause exists to revoke Kasl’s license in that Kasl has demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state on an ongoing basis with respect to at least three consumers, and has negligently failed to remit premium to an insurer.

23. In addition, the Commissioner finds that Kasl has demonstrated incompetence, untrustworthiness, or financial irresponsibility in his responses to KID inquiries on behalf of the consumers.

24. Based on the facts contained in paragraphs 11 through 13 above, the Commissioner finds that Kasl has transacted unauthorized insurance business contrary to K.S.A. 2003 Supp. 40-4905(a) and the Commissioner's order of February 24, 2004.

25. The Commissioner therefore 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 Robert F. Kasl.

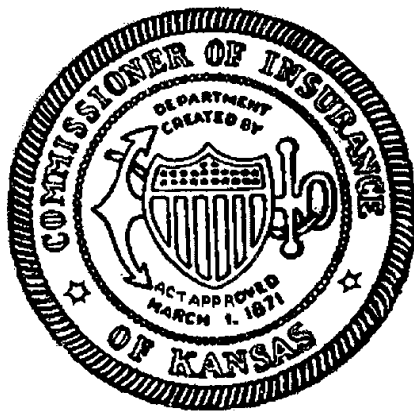
26. Nevertheless, because the Commissioner finds that Kasl's misconduct has been in the nature of negligence and irresponsibility and not fraud, coercion, or dishonesty, and because Kasl has demonstrated willingness make restitution to consumers and an earnest desire to conform his future conduct to statutory and regulatory standards, the Commissioner concludes that the public interest is best served by an order that will provide an opportunity for rehabilitation.

Based on the facts and circumstances set forth herein, **the COMMISSIONER HEREBY ORDERS** that the Kansas resident insurance agent's license of Respondent Robert F. Kasl is and shall remain suspended until one hundred and twenty days (120) from the date of this order, after which the license will be conditionally reinstated, subject to satisfaction of requirements for renewal, including proof of errors and omissions coverage in accordance with paragraph 13 of this order, and eligible for unconditional renewal on August 17, 2006.

The Commissioner directs that Kasl shall be permitted to become or remain employed by an insurance agency during the period his license is suspended but may not sell, solicit, or negotiate insurance, as defined by K.S.A. 2003 Supp. 40-4902.

The Commissioner further orders that Kasl shall, prior September 1, 2004, pay an administrative penalty of one thousand dollars (\$1000) for transacting insurance business in violation of K.S.A. 40-4905. Respondent is further ordered to pay an aggregate penalty of five hundred dollars (\$500) for failure to respond and failure to respond adequately to KID's inquiries, which penalty may be abated dollar for dollar upon a showing of restitution made personally to consumers.

**IT IS SO ORDERED THIS 4th DAY OF MAY 2004, IN THE CITY OF TOPEKA,  
COUNTY OF SHAWNEE, STATE OF KANSAS.**



\_\_\_\_\_  
/s/ Sandy Praeger  
Sandy Praeger  
Commissioner of Insurance  
BY:

\_\_\_\_\_  
/s/ Robert Tomlinson  
Robert Tomlinson  
Assistant Commissioner

I hereby stipulate and agree to the Commissioner's findings of fact, conclusions of law, and order. Further, I hereby waive judicial review of the order.

\_\_\_\_\_  
/s/ Robert S. Kasl  
Robert F. Kasl  
5/4/04  
Date

APPROVED BY:

/s/ Jennifer Osborn\_\_\_\_\_  
Jennifer Osborn  
*Attorney for Respondent Robert F. Kasl*

SUBMITTED AND APPROVED BY:

/s/ Brenda J. Clary\_\_\_\_\_  
Brenda J. Clary  
*Attorney for Petitioner Kansas Insurance Department*

**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. 9<sup>th</sup> St., Topeka, KS 66612.