

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

**FINAL ORDER**

Effective: 11/24/2004

In the Matter of the Kansas Resident )  
Insurance Agency License of )  
ALLIED INSURANCE AGENCY/ )  
DALEY INSURANCE AGENCY )

Docket No. 3394-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 resident agency license of Allied Insurance Agency/Daley Insurance Agency (“Allied/Daley”) 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 Susanna Daley was licensed as a nonresident agent to transact the business of insurance in Kansas, and had been so licensed since January 4, 1985, until her license was suspended by summary order, docket number 3326, on June 8, 2004.
2. KID records further indicate a legal address of 3515 S. Hocker, Independence, MO 64055 and mailing address of 1225 N. 78<sup>th</sup> St. Suite F, Kansas City, KS 66112, for Susanna Daley.
3. Respondent Allied Insurance Agency and Daley Insurance Agency is a partnership licensed as a Kansas resident insurance agency with a legal and mailing address of 1225 N. 78<sup>th</sup> St. Ste F, Kansas City, KS 66112, and Respondent Susanna Daley is its designated person.

4. Respondent Patrick J. Daley was associated with the agency until his Kansas insurance agent's license was terminated effective May 10, 2000.

5. KID records reflect that Patrick J. Daley's legal and mailing address is 3616 S. Hocker, Independence, MO 64055.

6. On May 18, 2004, KID served Susanna Daley with a summary order alleging incompetence, untrustworthiness, or financial irresponsibility in the conduct of business and failure to respond to KID's inquiries in connection with a consumer complaint.

7. The order provided that Susanna Daley must either pay a \$500 civil penalty or request a hearing by the date the order became final or her license would be suspended until the penalty provisions were satisfied in full.

8. Attached to the summary order was a notice containing the following statement:

“Notice is hereby given that the attached Summary Order will become effective fifteen (15) days after service of this Notice unless Respondent Susanna Daley 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. 9<sup>th</sup> Street, Topeka, KS 66612.

Any costs incurred as a result of conducting any 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.”

9. The time allowed for requesting a hearing expired at the close of business on June 7, 2004.

10. On or about June 7, 2004, KID received a Susanna Daley's response to a KID's letter of inquiry dated February 27, 2004.

11. Susanna Daley did not request a hearing.
12. The order became final at the close of business on June 7, 2004, and was entered as a final order on June 8, 2004.
13. Susanna Daley did not petition for judicial review of the agency action.
14. On June 10, 2004, KID received a complaint from Curtis Burton, doing business as Acme Pest Control, that he had paid Respondent \$480 in premium for business liability insurance, was issued a binder, and later received notice from the insurer that his insurance was being cancelled for nonpayment.
15. Based on information provided by the company, Western World Insurance Company, and its Kansas wholesale agent, M.J. Kelly Insurance Agency, in response to KID's inquiries, it appears that Respondent placed the business through M.J. Kelly in December 2002 but failed to forward a January 2004 premium payment to M.J. Kelly for continuation of the policy.
16. By letter dated June 18, 2004, KID requested Respondent's response to the complaint.
17. To date, Respondent has not replied to the letter.
18. On October 15, 2004, at 9:45 a.m., a KID investigator contacted Susanna Daley at the Allied/Daley agency and requested and received a quote for Kansas automobile coverage for himself and his wife on two vehicles.
19. Susanna Daley obtained employment and driver information, then gave the investigator a business card with handwritten figures on the back.
20. The card reflects a quote of \$1392.10 for six months, or installments of \$478.03 down with four payments of \$232.02.

21. The card does not include the name of an insurer.
22. The card identifies Pat and Sue Daley as owners of the agency and insurance brokers.

### **Applicable Law**

23. 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; . . .” K.S.A. 2003 Supp. 40-4909(a).
24. It is “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).
25. A person may not receive or share in commissions or other consideration for selling, soliciting, or negotiating insurance if that person is not licensed. K.S.A. 2003 Supp. 40-4910.
26. A designated person on behalf of an agency must be a licensed agent who is responsible for compliance with the insurance laws of this state, and any partner in the business who acts as an insurance agent must be licensed as an insurance agent. K.S.A. 40-4905(c).
27. 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**

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

29. The Commissioner finds that Susanna Daley has engaged in the sale, solicitation, or negotiation of Kansas insurance business without a valid license to do so.

30. The Commissioner finds that Susanna Daley is the designated person associated with Allied/Daley Agency and a partner with an unlicensed person in a business entity engaged in the insurance business in Kansas.

31. The Commissioner finds the acts of a partner in and designated person for the agency are the acts of the agency.

32. The Commissioner concludes that Patrick J. and Susanna Daley continue to use the agency business card, which card is a solicitation of insurance that falsely represents that Patrick J. and Susanna Daley are authorized to act as insurance brokers, in violation of K.S.A. 40-4905(a).

33. The Commissioner also finds that Allied/Daley has paid or shared commissions with a person who is not licensed by virtue its entity status as a partnership between Patrick Daley, an unlicensed person, and Susanna Daley, whose license has been suspended.

34. The Commissioner concludes that Allied/Daley has thereby violated one or more provisions of chapter 40 of the Kansas Statutes Annotated.

35. Therefore, the Commissioner concludes that sufficient grounds exist to revoke the resident insurance agency license of Allied/Daley pursuant to K.S.A. 2003 Supp. 40-4909(a)(2).

36. Accordingly, the Commissioner concludes that the agency license of Allied Insurance Agency and Daley Insurance Agency should be revoked pursuant to K.S.A. 2003 Supp. 40-4909(a).

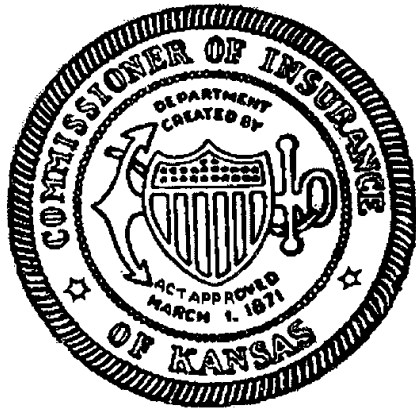
37. Based on the facts and circumstances set forth herein, it appears that the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in

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 Susanna Daley, and Allied Insurance Agency and Daley Insurance Agency.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT** the Kansas resident insurance agency license of Allied Insurance Agency and Daley Insurance Agency should be and is hereby **REVOKED**.

**IT IS FURTHER ORDERED THAT** the Allied Insurance Agency and Daley Insurance Agency shall immediately **CEASE AND DESIST** from selling, soliciting, and negotiating insurance in Kansas or with respect to risks located in Kansas and from holding themselves out as insurance agents or brokers.

**IT IS SO ORDERED THIS \_5th\_ DAY OF NOVEMBER, 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. 9<sup>th</sup> St., Topeka, KS 66612.

**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 5th day of November 2004, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Susanna Daley  
Allied/Daley Insurance Agency  
1225 N. 78<sup>th</sup> St. Suite F  
Kansas City, KS 66112

\_s/ Brenda J. Clary\_\_\_\_\_

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The Final Order will constitute final agency action in this matter.

Dated this 5th day of November 2004.

\_ /s/ Brenda J. Clary \_\_\_\_\_  
Brenda J. Clary  
Staff Attorney  
Kansas Insurance Department