

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

FINAL ORDER

Effective: 12/01/2004

In the Matter of the Kansas Resident)
Insurance Agent's License of)
MARK A. HENRY, SR.)

Docket No. 3396-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 agent's license of Mark A. Henry, Sr. ("Respondent") by way of Summary Order as provided by K.S.A. 77-537.

Findings of Fact

The Commissioner has been shown the following:

1. Records maintained by the Kansas Insurance Department ("KID") indicate that Respondent is licensed as a resident agent to transact the business of insurance in Kansas, and has been so licensed since April 4, 1994.
2. KID records further indicate a legal address for respondent of 14198 West 141 Pl., Olathe, KS 66062-5858.
3. A judgment entered against Respondent on August 23, 2004, in Clinton County, Missouri, Circuit Court imposed penalties and costs of \$17,500 for consumer protection violations and permanently enjoined Respondent from trading goods or services online. The judgment reflects that Respondent, using the internet, solicited hunters to pay up to \$2,500 each for private hunting with misrepresentations regarding the land and accommodations.
4. To date, Respondent has not reported the judgment to KID.

Applicable Law

5. 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; . . . (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 . . .” K.S.A. 2003 Supp. 40-4909(a).

6. Administrative regulations require that an agent report to KID any judgment or injunction involving fraud, deceit, or misrepresentation within 30 days of the judgment. K.A.R. §40-7-9(c).

7. The Commissioner may revoke any license issued under the Insurance Agents Licensing Act if the Commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under such license. K.S.A. 2003 Supp. 40-4909(b).

Conclusions of Law

8. The Commissioner has jurisdiction over Respondent as well as the subject matter of this order, and such order is necessary to prevent immediate danger to the public welfare.

9. The Commissioner finds, based on the facts contained in paragraphs 3 and 4 above that Respondent has used fraudulent, coercive, or dishonest practices in the conduct of business.

10. The Commissioner concludes that sufficient grounds exist for the revocation of Respondent’s insurance agent’s license pursuant to K.S.A. 2003 Supp. 40-4909(a)(8).

11. In addition, the Commissioner finds that Respondent has violated K.A.R. §40-7-9 by failing to report the Missouri judgment and injunction to KID within 30 days and concludes

that Respondent's insurance agent's license may be revoked pursuant to K.S.A. 2003 Supp. 40-4909(a)(2)(A).

12. The Commissioner also concludes that Respondent's license may be revoked or suspended pursuant to K.S.A. 2003 Supp. 40-4909(b) for the protection of the interests of the insurer and the insurable interests of the public.

13. 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 Mark A. Henry, Sr.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas resident insurance agent's license of Mark A. Henry, Sr., is hereby REVOKED. It is further ordered that Mark A. Henry, Sr., shall **CEASE AND DESIST** from the sale, solicitation, or negotiation of insurance and/or receiving compensation deriving from the sale, solicitation, or negotiation of insurance conducted after the effective date of this order.

IT IS SO ORDERED THIS 10th 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. 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 10th day of November, 2004, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Mark A. Henry, Sr.
14198 West 141 Pl.
Olathe, KS 66062-5858

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

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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 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.

Dated this 10th of November 2004.

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