

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

FINAL ORDER

Effective: 01/31/05

In the Matter of the Kansas Nonresident)
Insurance Agent's License of)
JOHN J. BARRY)

Docket No. 3421-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 John J. Barry 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 June 26, 2003. KID records further indicate a legal and mailing address of 524 North Garfield Avenue, Janesville, WI 53545.
2. By order dated and effective November 5, 2004, Respondent's Wisconsin insurance producer's license was revoked for failure to pay tax.
3. To date, Respondent has not notified KID of the action.

Applicable Law

4. 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 . . . [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).

5. Administrative regulations require that a person licensed in this state as an insurance agent shall, within 30 days of the occurrence, report enumerated events to the Commissioner. Among these events is disciplinary action against the agent's license by the insurance regulatory official of any other state or territory. K.A.R. § 40-7-9.

6. 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.

7. 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

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

9. The Commissioner concludes that Respondent's Kansas license may be revoked solely because Respondent has had an agent's license or its equivalent revoked in another state.

10. The Commissioner concludes, in addition, that Respondent's Kansas license may be revoked because it is based on reciprocity, and Respondent's license in his home state of Wisconsin has been revoked.

11. The Commissioner also concludes that Respondent's license may be revoked because Respondent has violated the regulation requiring an agent to report a disciplinary action taken by another regulatory authority against a professional license.

12. Accordingly, the Commissioner concludes that sufficient grounds exist for the revocation of the insurance agent's license of John J. Barry pursuant to K.S.A. 2003 Supp. 40-4909(a).

13. In addition, the Commissioner finds that the insurance agent's license of John J. Barry 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).

14. 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 John J. Barry.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas nonresident insurance agent's license of John J. Barry is hereby **REVOKED**. It is further ordered that John J. Barry shall **CEASE AND DESIST** from engaging in the business of insurance in the state of Kansas.

IT IS SO ORDERED THIS _12th_ DAY OF JANUARY 2005, 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 12th day of January 2005, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

John J. Barry
524 N. Garfield Ave.
Janesville, WI 53545

_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 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 12th day of January 2005.

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