

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

FINAL ORDER Effective: 01/18/2005
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In the Matter of the Kansas Resident)
Insurance Agent's License of)
GINGER D. MILLBERN)

Docket No. 3418-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 Ginger D. Millbern ("Millbern" or "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 June 29, 1995.
2. KID records indicate a legal and mailing address for Respondent of 732 S. Oak Street, Ottawa, KS 66067, and agency affiliations with Commercial Federal Bank and Commercial Federal Insurance Corporation, both of which were cancelled by agency request on July 9, 2004.
3. KID records further indicate that Respondent self-reported pending felony charges in July 2004.
4. In response to a KID inquiry, Commercial Federal Insurance Corporation representative Judith A. Axtman stated in a letter dated October 14, 2004, that Respondent's

employment had been terminated for embezzlement activities and that an internal investigation was ongoing and criminal charges were pending.

5. By email dated December 26, Respondent notified KID that she had been convicted of and sentenced on two severity level 7 felony counts involving theft and embezzlement.

Applicable Law

6. 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: . . . (6) Been convicted of a misdemeanor or felony . . . (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).

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 proceeding, and such proceeding is held in the public interest.

9. The Commissioner finds, based on the facts contained in paragraphs 3 through 5 above that Respondent has used a fraudulent, coercive, or dishonest practice or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business.

10. The Commissioner finds, based on the facts contained in paragraph 5, that Respondent has been convicted of two felony offenses.

11. The Commissioner notes that the offenses are material to Respondent’s fitness to hold an insurance agent’s license.

12. The Commissioner further notes that the offenses are of a type that would render Respondent a “prohibited person” in the business of insurance pursuant to 18 U.S.C. §1033.

13. The Commissioner concludes that sufficient grounds exist for the suspension or revocation of Respondent’s insurance agent’s license pursuant to K.S.A. 2003 Supp. 40-4909(a)(6) and (a)(8).

14. The Commissioner also concludes that Respondent’s license may be suspended or revoked 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.

15. 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 Ginger D. Millbern.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas resident insurance agent’s license of Ginger D. Millbern should be and is hereby REVOKED. It is further ordered that Ginger D. Millbern 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 29th DAY OF DECEMBER 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 **Notice** and **Summary Order** on this 29th day of December 2004, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Ginger D. Millbern
732 S. Oak Street
Ottawa, KS 66067

/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 29th of December 2004.

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