

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

In the Matter of the Kansas Resident)
Insurance Agent's License of) Docket No. 3-CO
DENNIS K. RACKERS)

CONSENT ORDER
(Pursuant to K.S.A. 2004 Supp. 40-4909)

The Kansas Insurance Department ("KID") and Kansas resident insurance agent Dennis K. Rackers ("Respondent") wish to resolve allegations of misconduct without formal adjudicative proceedings by entering into this consent order. Having been advised of his right to a hearing prior to the issuance of an order, Respondent stipulates to the following order, and Respondent voluntarily waives hearing and review of the order.

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 March 27, 1995.
2. KID records further indicate a legal and mailing address of 11936 W. 119th Street, #287, Overland Park, KS 66213.
3. KID records further reflect receipt in September and October 2004 of complaints from three insurance producers regarding Respondent's conduct with respect to the sale of leads.
4. Each producer alleged that Respondent had sold him a lead list with a money-back guarantee as to the quality of the list and volume of sales it should produce and promised a

requested refund but failed, despite repeated demands over a period of six months or more, to forward payment.

5. In one instance, Respondent reported to the Better Business Bureau that he had sent a check when, in fact, he had not.

6. In addition, Respondent's check to one producer for a partial refund of \$100, dated December 20, 2004, was returned unpaid for insufficient funds.

7. Based on those allegations, KID conducted further investigation into Respondent's business practices and concluded based on documentary evidence that Respondent had demonstrated dishonesty in his statements to the agents and Better Business Bureau regarding refunds and demonstrated financial irresponsibility in the conduct of his business, including but not limited to failure to reserve funds to satisfy potential demands for refunds.

8. Respondent agrees that evidence exists to support the allegations against him, and Respondent now agrees to admit to four incidents of financial irresponsibility during 2004.

Applicable Law

9. K.S.A. 2004 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: . . . (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. 2004 Supp. 40-4909(a).

10. In lieu of taking any action under K.S.A. 2004 Supp. 40-4909(a), the Commissioner may censure the licensee or issue an order imposing an administrative penalty. K.S.A. 2004 Supp. 4909(h).

11. 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. 2004 Supp. 40-4909(b)

Conclusions of Law

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

13. The Commissioner and Respondent agree that Respondent's alleged conduct is grounds for suspension or revocation pursuant to K.S.A. 2004 Supp. 40-4909(a)(8).

14. The Commissioner and Respondent agree to a penalty of \$500 for each of four violations of K.S.A. 2004 Supp. 40-4909(a)(8) pursuant to K.S.A. 2004 Supp. 40-4909(h) and further agree that the penalty will be suspended until Respondent's January 5, 2007, license renewal date.

15. The Commissioner and Respondent agree that suspension of the penalty is a matter of grace and not a right.

16. The Commissioner and Respondent agree that if, during the probationary period defined in ¶14, KID receives a well-founded complaint from a consumer, company, or other agent alleging conduct on the part of Respondent that would violate any provision of Chapter 40 of the Kansas Statutes Annotated (the insurance code), Respondent shall be notified that the penalty is immediately due and payable and that, if the penalty is not paid within 15 days, Respondent's license will be suspended until the penalty is paid in full.

17. The Commissioner and Respondent agree that a "well-founded complaint" shall be defined as a complaint the Commissioner, in her sole discretion, deems credible and

supported by substantial evidence, and Respondent waives any challenge to the Commissioner's determination through the administrative hearing process or judicial review.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT Dennis K. Rackers shall be liable for a total administrative penalty of \$2000, which penalty shall be suspended until January 5, 2007, on the condition that Dennis K. Rackers shall CEASE AND DESIST from violating any provision of Chapter 40 of the Kansas Statutes Annotated or any regulation promulgated thereunder.

IT IS SO ORDERED THIS 3rd DAY OF MARCH 2004, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/ Sandy Praeger
Sandy Praeger
Commissioner of Insurance

BY:

John W. Campbell
John W. Campbell
General Counsel

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/ Dennis K. Rackers
Dennis K. Rackers Date

APPROVED BY:

/s/ Timothy J. Knopp
Timothy J. Knopp
Attorney for Respondent Dennis K. Rackers

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. 9th St., Topeka, KS 66612.