

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

<b>FINAL ORDER</b> <b>Effective: 04/10/06</b>
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In the Matter of the Kansas Nonresident        )  
Motor Club Insurance Agent's License of        )        Docket No.   3535-SO  
JERRY M. FRANKLIN                                )

**SUMMARY ORDER**  
**(Pursuant to K.S.A. (2004 Supp.) 40-4909 and K.S.A. 77-537)**

Pursuant to authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. (2004 Supp.) 40-4909, the Commissioner hereby revokes the nonresident motor club agent license of Jerry M. Franklin (“Franklin”) 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 the Department granted a nonresident motor club license to Franklin on January 13, 2006. KID records further indicate a legal address of 3114 Clear Lake Way, Apt. B, Indianapolis, IN 46227-3908, and a mailing address of 65 Airport Pky, Ste 110, Greenwood, IN 46143-1439.
2. On or about October 28, 2005, Franklin marked “NO” on his application for Kansas automobile club agent registration as whether he has been “convicted of or pled guilty or nolo contendere (no contest) to any misdemeanor or felony, or [does he] currently have any pending misdemeanor or felony charges against [him]. . . .”
3. Subsequent to the issuance of his nonresident motor club agent license, KID was informed that Franklin has been (a) convicted for felony robbery in 1994; (b) arrested for a misdemeanor for carrying a handgun without a license in 1995; (3) convicted for auto theft and

receiving stolen property in 1995; (d) arrested and convicted for dealing and in possession of illegal drugs, and (e) subject to four charges of driving with suspended license.

4. By letter of January 24, 2006, the KID directed Franklin to provide paperwork for the above-stated offenses to the Department on or before February 24, 2006. KID specifically warned Franklin that his failure to comply with the aforesaid requirement will impact the status of his license.

5. To date, KID has not received any response from Franklin regarding his criminal history.

#### **Applicable Law**

6. 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 . . . (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; . . . (3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud.” K.S.A. (2004 Supp.) 40-4909(a).

7. 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 are disciplinary actions against the agent’s license by the insurance regulatory official of any other state or territory and a change of address. K.A.R. § 40-7-9.

8. 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. (2004 Supp.) 40-4909(b).

### **Conclusions of Law**

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

10. The Commissioner finds that Franklin's Kansas license may be revoked solely because he has obtained his Kansas nonresident motor club agent license through misrepresentation of his criminal history.

11. In addition, the Commissioner finds that Franklin failed to respond to KID's repeated inquiries about his criminal convictions, despite clear notice that failure to do so may impact the status of his Kansas license, thereby violating the equivalent of a subpoena or order of the Commissioner.

12. Accordingly, the Commissioner concludes that sufficient grounds exist for the revocation of the non resident motor club insurance agent's license of Jerry M. Franklin pursuant to K.S.A. (2004 Supp.) 40-4909(a).

13. Moreover, the Commissioner finds that Franklin has obtained his Kansas license through misrepresentation of his criminal history, and his insurance agent's license should be revoked pursuant to K.S.A. (2004 Supp.) 40-4909(a) and (b) for the protection of the insurable interests of the public.

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 Jerry M. Franklin.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT** the Kansas non-resident motor club insurance agent's license of Jerry M. Franklin is hereby **REVOKED**.

**Notice and Opportunity for Hearing**

Jerry M. Franklin, within fifteen (15) days of service of this Summary Order, may file with the KID written request for a hearing on this Summary Order, as provided by K.S.A. 77-542. In the event a hearing is requested, such request 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 shall be assessed against the agent/agency who is the subject of the hearing as provided by K.S.A. 40-4909(f). Costs shall include witness fees, mileage allowances, any costs associated with the reproduction of documents which become part of the hearing record, and the expense of making a record of the hearing.

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.

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. 9<sup>th</sup> St., Topeka, KS 66612-1678.

IT IS SO ORDERED THIS 22nd DAY OF MARCH, 2006, IN THE CITY OF  
TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



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Sandy Praeger  
Commissioner of Insurance  
BY:

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/s/ John W. Campbell  
John W. Campbell  
General Counsel

#### Certificate of Service

The undersigned hereby certifies that he served the above and foregoing Summary Order on this 22nd day of March, 2006, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Jerry M. Franklin  
3114 Clear Lake Way, #B  
Indianapolis, IN 46227-3908

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/s/ Hsingkan Chiang  
Hsingkan Chiang, Staff Attorney