

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

**FINAL ORDER**

**Effective: 03-02-07**

**In the Matter of the Kansas Resident        )**  
**Insurance Agent’s License of                )**  
**JOE F. NOVACEK                                 )**

**Docket No. 3615-SO**

**SUMMARY ORDER**

(Pursuant to K.S.A. 2005 Supp. 40-4909, K.S.A. 40-2407 and K.S.A. 77-537)

Pursuant to authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 2005 Supp. 40-4909(h)(2) and K.S.A. 40-2407 , the Commissioner hereby imposes an administrative penalty against and requires redress of injury by respondent Joe F. Novecek, all 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.
2. KID records further indicate a legal and mailing address for Respondent of 4732 South Madison, Wichita, Kansas, 67216.
3. In 2006, KID received a referral from the Department of Labor, Workers Compensation Fraud Unit regarding Respondent.
4. KID Investigator Randy Adair handled the referral and KID investigation.
5. In January 1999, [REDACTED]. (hereinafter referred to as [REDACTED] submitted an application for insurance and issued check number 10500 to Joe A. Novacek Insurance Agency in the amount of \$203.00 for “one year prem—workers comp ins.”

6. Respondent failed to obtain workers compensation insurance in 1999 after receiving the application for insurance and partial payment of the premium (i.e. \$203.00)

7. Respondent issued a false certificate of insurance to and failed to provide workers compensation coverage from 1999 to 2005 to [REDACTED]

8. [REDACTED] was investigated by the Department of Labor Worker Compensation Fraud Unit.

9. Said Fraud Unit requested a copy of [REDACTED] insurance certificate from Respondent.

10. Respondent supplied the Fraud Unit with a false certificate of insurance

11. Respondent admitted to Investigator Adair of KID that he (respondent) faxed a certificate to Kansas Work Comp showing that [REDACTED] was insured by Liberty Mutual, when, in fact he knew this was not true. He further admitted to Investigator Adair of KID that the policy number on this certificate was a bad number and that it was one that he had handy so he just used it. Although he told Investigator Adair that he intended to subsequently (i.e. after he received the partial premium) get a policy started, respondent never did. Respondent further admitted that he did not advise Kansas Work Comp that the policy did not exist. As a result, [REDACTED] paid a partial premium for insurance which respondent never obtained and respondent created a bogus certificate of insurance purportedly issued by Liberty Mutual and assigned it a bogus certificate number.

12. This is the respondents first offense and the respondent admitted his wrongdoing and cooperated in the investigation.

### **Conclusions of Law**

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

14. The Commissioner finds from the foregoing findings of fact that the respondent has engaged in a deceptive act under K.S.A. 40-2407.

15. The Commissioner finds from the foregoing findings of fact that the respondent intentionally misrepresented the provisions terms and conditions of an actual or proposed insurance contract or application for insurance.

16. The Commissioner finds from the foregoing findings of fact that the respondent improperly withheld, misappropriated or converted monies (i.e. \$203.00) received in the course of doing insurance business.

17. The Commissioner finds from the foregoing findings of fact that the respondent used fraudulent, coercive or dishonest practice or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state

### **Applicable Law**

18. K.S.A. 2005 Supp. 40-4909(h)(2) provides in relevant part: “. . . the commissioner may: (2) . . . issue an order imposing an administrative penalty up to a maximum of \$500 for each violation . . .

19. K.S.A. 40-2407(3) provides in relevant part that the commissioner has the authority to redress injury by requiring the refund of any premiums paid by any consumer.

20. 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 law

and the protection of the public interest does not require the KID to give notice and opportunity to participate to persons other than the respondent, Joe F. Novecek.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT** within seven days after the effective date of this order the respondent, Joe F. Novecek pay an administrative penalty in the amount of \$500, and further that the same respondent within the same time redress the injury he caused [REDACTED], in the amount of \$203.00.



\_\_\_\_\_/s/ Sandy Praeger\_\_\_\_\_

Sandy Praeger

Commissioner of Insurance

BY:

\_\_\_\_\_/s/ John W. Campbell\_\_\_\_\_

John W. Campbell

General Counsel

**Certificate of Service**

The undersigned hereby certifies that a true and correct copy of the above and foregoing **Summary Order** on this 17<sup>th</sup> day of February, 2007, by placing the same in the United States Mail, first class postage prepaid, addressed to the following:

Joe Novacek  
4732 South Madison  
Wichita, Kansas, 67216

\_\_\_/s/ Ralph DeZago\_\_\_\_\_

Ralph DeZago  
Staff Attorney