

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

FINAL ORDER Effective: 03-19-07
--

In the Matter of the Kansas Resident -)
Insurance Agent's License of)
DERICK W. TONEY)

Docket No. 3625-SO

SUMMARY ORDER

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

Pursuant to authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 2005 Supp. 40-4909(a) , the Commissioner hereby revokes the resident insurance agent's license of Derick W. Toney, 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, Derick W. Toney 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 as 817 N. Washington Street, El Dorado, Kansas, 67042-3943.
3. On October 6, 2006, respondent filled out an application for an insurance agent's license upon which he indicated that he had never been convicted of a crime, including a misdemeanor. He indicated his date of birth as [REDACTED].
4. A license was issued to him on October 10, 2006 based upon his application.
5. It was subsequently learned that in Neosho County, Kansas, respondent was convicted and sentenced for the adult misdemeanor offense of lewd and lascivious behavior. on September 24, 1998. KID requested information about this offense from the respondent, but the

requested information was not forthcoming, respondent indicating that he had talked to an unnamed attorney about it. KID counsel called respondent to determine who his attorney was in this matter, and learned from him that he was not represented by an attorney in this matter.

Conclusions of Law

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

7. The Commissioner finds from the foregoing findings of fact that the respondent provided incorrect, misleading, incomplete or untrue information in the license application.

Applicable Law

8. K.S.A. 2005 Supp. 40-4909a provides in relevant part: “. . . the commissioner may: . . . revoke . . any license issued under this act if the commissioner finds that the applicant or license holder has: (1). Provided incorrect, misleading, incomplete or untrue information in the license application.

9. 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, Derick W.Toney.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the non-resident insurance agent’s license of Derek W. Toney is hereby REVOKED, effective the effective date of this order.

IT IS FURTHER ORDERED that respondent Derek W. Toney 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.

Notice of Right to Hearing or Appeal

You are entitled to a hearing pursuant to K.S.A. § 77-537, the Kansas Administrative Procedure Act. If you desire a hearing, you must file a written request for a hearing with:

John W. Campbell, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612.

This request must be filed within fifteen (15) days from the date of service of this Order. If you request a hearing, the Kansas Insurance Department will notify you of the time and place of the hearing and information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing, before commencement of same.

If a hearing is not requested in the time and manner stated above, this Order shall become effective as a Final Order upon the expiration of time for requesting a hearing, pursuant to K.S.A. § 77-613. In the event that you file a petition for judicial review, pursuant to K.S.A. § 77-613(e), the agency officer to be served on behalf of the Kansas Insurance Department is:

John W. Campbell, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612.

IT IS SO ORDERED THIS 28th DAY OF FEBRUARY, 2007, 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

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing Summary Order was served by placing the same in the United States Mail, first class postage prepared, on this 28th day of February, 2007, addressed to the following:

Derick W. Toney
817 N. Washington Street,
El Dorado, Kansas, 67042-3943

/s/ Ralph DeZago_____

Ralph DeZago
Staff Attorney