

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

In the Matter of the Kansas)
Resident Insurance Agent’s License of) Docket No. 3926-SO
ANGELA R. CLARKE)
NPN #8236938)

SUMMARY ORDER

(Pursuant to K.S.A. 2007 Supp. 40-4909 and K.S.A. 77-501 *et. seq.*)

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-4909, the Commissioner hereby revokes the resident agent’s license of Respondent, Angela R. Clarke (“Respondent”). This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for hearing is made, pursuant to K.S.A. 77-542.

Findings of Fact

The Commissioner finds the following facts:

1. Records maintained by the Kansas Insurance Department (“KID”) indicate the Respondent is licensed as a resident agent to transact the business of insurance in the State of Kansas, and has been so licensed since January 4, 2005.
2. KID records further indicate a legal address and mailing address of PO Box 487, Jetmore, Kansas 67854-0487.
3. On July 8, 2008, KID received a complaint from ██████████ regarding the proceeds of her deceased father’s estate. Ms. ██████████ stated that Respondent’s company Hodgeman County Abstract & Title Ins. Co. was charged with keeping the proceeds from the sale of the home in escrow. Ms. ██████████ stated that those proceeds were released from any encumbrance on June 16, 2008 and that she contacted the Respondent about the same.

4. Ms. [REDACTED] further stated that Respondent informed her that she would send the checks. Ms. [REDACTED] stated that she again spoke with Respondent on July 3, 2008, and that Respondent informed her at that time that Respondent did not have the funds in escrow.
5. On July 5, 2008, Ms. [REDACTED] received a check from Respondent for \$17,674.62, at that time she called The Farmers State Bank in Jetmore and inquired if the check would clear. She was informed that it would not.
6. Randy Adair, Chief Fraud Investigator for the Kansas Insurance Department investigated Ms. [REDACTED] complaint. During his investigation it was discovered that only \$12,391.60 remained in escrow from the sale of Ms. [REDACTED] parent's home.
7. Records indicate that the home was sold for \$75,000.00 that less deductions to buyer the balance of the escrow was \$74,200.62. You were then authorized to use those proceeds to pay the funeral expenses for Ms. [REDACTED] parents which left a balance of \$53,023.66. The remaining \$40,632.26 was unaccounted for.
8. On July 10, 2008, Randy Adair called and spoke to the Respondent concerning the unaccounted for money. Respondent informed him that she "borrowed" the money as she needed it for personal expenses.
9. On July 11, 2008, Mr. Adair again spoke with Respondent, at that time Mr. Adair asked what the Respondent what the money was used for. Respondent replied to pay off a mortgage, when questioned further Respondent admitted that it was not her mortgage, but rather to pay an escrow account on another mortgage transaction.

10. Mr. Adair then inquired if this had happened before, Respondent stated that it had, but that she were unable to remember the dates, names or amounts. Respondent then stated that this had been occurring for a couple of years.
11. On August 6, 2008, a letter was sent to Respondent from the legal division of KID inquiring as to the allegations made by Ms. [REDACTED]. To date, Ms. Clarke has not responded to that letter.

Applicable Law

12. K.S.A. 2007 Supp. 40-4909 states, in pertinent part:
- (a) 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 or regulation promulgated thereunder;
 - (4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business.
 - (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.
 - (b) In addition, the commissioner may suspend, revoke or refuse renewal of any license issued under this 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.

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 that Respondent improperly converted, misappropriated or converted moneys she received in the course of doing insurance business by using funds from an escrow account for her personal expenses, a violation of K.S.A. 2007 Supp. 40-4909(a)(4) and (8).
15. The Commissioner finds that Respondent's conduct in taking moneys from escrow accounts without authorization and using them for personal expenses over the span of several years is a violation of K.S.A. 2007 Supp. 40-4909(a)(4) and (8).
16. The Commissioner finds, pursuant to K.S.A. 40-4909(b), that the insurable interests of the public are not properly served under Respondent's license.
17. Accordingly, the Commissioner concludes sufficient grounds exist for the revocation of the insurance agent's license of Angela R. Clarke pursuant to K.S.A. 2007 Supp. 40-4909(a) and (b).

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

1. The Kansas Resident Insurance Agent's License of ANGEAL R. CLARKE is hereby **REVOKED** effective the effective date of this Order.
2. **IT IS FURTHER ORDERED** that ANGELA R. CLARKE 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 AND OPPORTUNITY FOR HEARING

Angela R. Clarke, within fifteen (15) days of service of this Summary Order, may file with the Kansas Insurance Department a written request for 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:

In the Matter of the Kansas
Resident Insurance Agent's License of
Angela R. Clarke

John W. Campbell, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 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 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 (15) day period for requesting a hearing. The Final Order will constitute final agency action in the 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 Kansas Insurance Department is:

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

IT IS SO ORDERED THIS 18th DAY OF SEPTEMBER, 2008, 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 she served the above and foregoing Summary Order on this 18th day of Sept., 2008, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

In the Matter of the Kansas
Resident Insurance Agent's License of
Angela R. Clarke

Angela R. Clarke
PO Box 487
Jetmore, KS 67854-0487

_____/s/ Stacy R. Bond_____
Stacy R. Bond
Staff Attorney

NOTICE OF RIGHTS

Pursuant to K.S.A. §77-601 et seq. Angela R. Clarke is entitled to judicial review of this Final Order. The petition for judicial review must be filed within thirty (30) days of service of this Final Order (Plus three (3) days for service by mail pursuant to K.S.A. §77-531). In the event Angela R. Clarke files 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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served the above and foregoing Final Order on this ___9th___ day of October, 2008, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Angela R. Clarke
P.O. Box 487
Jetmore, Kansas 67584-0487

_/_s/ John R. Dowell_____

John R. Dowell
Staff Attorney