

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

In the Matter of the Kansas)
Resident Insurance Agent's License of) Docket No. 3854-SO
JIMMIE D. MAISH)
NPN #7075361)

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, Jimmie D. Maish ("Mr. Maish"). 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 you are licensed as a resident agent to transact the business of insurance in the State of Kansas, and have been so licensed since February 1, 1991.
2. KID records further indicate a legal address and mailing address of PO Box 57, Augusta, Ks 67010.
3. Pennie Bunkers and her husband first became acquainted with Jimmie D. Maish in 1989. Maish owned and operated a company called RV Specialists located in Augusta, Kansas. She and her husband owned an RV and met Maish through some RV rallies in Kansas.
4. In 1999, her husband passed away, Bunkers continued to attend a few RV rallies.

Sometime in September of 2002, Bunkers began dating Maish on an occasional basis.

- Maish was also a licensed insurance agent in both Kansas and New Mexico. In 2003, Bunkers purchased several insurance annuities and long-term healthcare policy through Maish.
5. Maish maintained two residences during this time period; one in Albuquerque, New Mexico and another in Towanda, Kansas. In August or September of 2003, Bunkers learned that Maish had a live-in girlfriend in Albuquerque and broke off their relationship.
 6. In late 2003, Maish re-contacted Bunkers and was able to convince her that the other woman was out of his life and wanted to get back with her. Bunkers agreed to begin dating Maish again and believed he was going to be faithful to her.
 7. Maish told Bunkers that he and Ismael Ruiz were owners of C & I Benefit Solutions, an insurance company located at 10701 Lomas Blvd., NE, Ste. 115, Albuquerque, NM.
 8. According to Maish, C & I Benefit Solutions was also in the business of finding joint venture capital funds for businesses. During several telephone conversations in late 2003, Maish told Bunkers that 4ECOMM Holding, LLC was one of the companies he was raising funds for on their behalf. Maish told her that 4ECOMM was already in the process of setting up kiosk machines that sold electronics products and other household merchandise in third-world countries. Maish told Bunkers that he was a part owner in 4ECOMM and was very excited about its potential growth.
 9. In January of 2004, Maish again talked to Bunkers by telephone and offered her the opportunity to invest in 4ECOMM. For a ten thousand (\$10,000.00) investment, she would be guaranteed that her investment funds would double in value in a rather short

- period of time. Her investment funds would never be placed at risk. For this investment, Bunks would receive several percentage points of the profits coming from the kiosk machines.
10. Based upon the representations made by Maish and the fact that Bunks had a complete trust in Maish, she decided to make the investment. Maish instructed her to make the investment check payable to C & I Benefit Solutions and mail the funds to his home address at 531 Eugene Court SE, Albuquerque, NM.
 11. On or about January 28, 2004, while at her home in Roeland Park, Johnson county, Kansas, Bunkers wrote out her personal check #6872 drawn on her account at US Bank in the amount of \$5,000 and made it payable to C & I Benefit Solutions, and mailed it to Maish's home located at 531 Eugene Court SE, Albuquerque, NM.
 12. Several days later, she transferred \$5,000 from a savings account and placed those funds into her checking account at US Bank. On or about February 5, 2004, she issued a second personal check #6874 in the amount of \$5,000 and made it payable to C & I Benefit Solutions. This check was likewise mailed directly to Maish's home in New Mexico.
 13. In the following months Maish continued to give Bunkers a positive feedback as to how well the investment was progressing. Bunkers continued to believe that what Maish was telling her about the investment was truthful and accurate. At the same time, Bunkers believed that the relationship between her and Maish would end in marriage.
 14. Gary Fulton, Special Investigator, Kansas Securities Commissioner, interviewed several witnesses to these events; including Jimmie Maish, Ismael Ruiz and Dennis

Good. Fulton found that Maish was never an owner of 4ECOMM Holding LLC. and that Ruiz and Good the owners of 4ECOMM stated that it was never a viable company was only an idea. That 4ECOMM had no offices, no bank accounts, no employees, no assets and no business plan. Further Ruiz and Good stated that at no time was Maish authorized to collect investment funds from small investors nor, did he have the authority to give any investors a percentage of interest in revenues from kiosk sales.

15. Fulton further found that the \$10,000 Bunkers sent to Maish was deposited in the account of C & I Benefit Solutions and used to pay the expenses of C & I Benefit Solutions. At no time was Bunkers investment funds actually invested in 4ECOMM Holding, LLC.
16. In June of 2004, Maish called Bunkers at her home in Roeland Park, Johnson County, Kansas. He told her he had a business client in New Mexico that needed a short-term loan of \$5,000. Maish never identified the name of the client, only stating that it would be a short-term of three to four weeks and that Bunkers would get back her \$5,000 plus \$1,000 in interest on the loan. Bunkers continued to trust Maish and did not know her previous \$10,000 was not invested as she believed.
17. On or about June 9, 2004, Bunkers instructed US Bank to withdraw \$5,000 from her money market account and wire transfer the \$5,000 to the Wells Fargo Bank in Albuquerque, NM in care of C & I Benefit Solutions, account #135-2551783.
18. After one month, Bunkers called Maish in Albuquerque and asked about the \$5,000 loan to his business client. Maish said he would check on the status of the loan and get back to her. In the next several months, Bunkers continued to ask Maish about

- the \$5,000 loan. Maish only provided her with vague excuses as to why the loan and profits hadn't been repaid.
19. Fulton found that this money was also deposited into the account of C & I Benefit Solutions and was used to pay business and overhead expenses of C & I Benefit Solutions.
20. On May 24, 2007, the Securities Commissioner of Kansas filed a Journal Entry of Motion Hearing and Default Order of Sanctions against Respondent's Jimmie D. Maish and 4ECOMM Holding, LLC. In that order, Respondent Maish was ordered to cease and desist from transacting business in the State of Kansas as broker-dealers or agents, as defined in K.S.A. 17-1252 and K.S.A. 2005 Supp. 17-12a102, unless the persons engaged in such business are registered under the Kansas Uniform Securities Act or exempt from registration; employing or associating with any agent transacting business in the State of Kansas unless the agent is registered under the Kansas Uniform Securities Act; offering selling any security in the State of Kansas unless the security is registered under the Kansas Uniform Securities Act or exempt from registration and engaging in any other acts or practices which constitute violations of the Kansas Uniform Securities Act.
21. Jimmie D. Maish was further BARRED by the Securities Commissioner from association with any broker-dealer or investment adviser registered in the State of Kansas. Maish was also fined \$10,000 by the Securities Commissioner and ordered to pay restitution to Pennie Bunkers in the amount of \$15,000 with an accruing interest rate of 6% per annum.

Applicable Law

22. K.S.A. 2006 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;
 - (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.
23. K.A.R. 40-7-9 states in pertinent part: Each person licensed in this state as an insurance agent shall report the following to the commissioner of insurance within 30 days of occurrence:
- (b) each disciplinary action on an occupational license held by the licensee, other than an insurance agent's license, by the appropriate regulatory authority of this or any other jurisdiction;
 - (c) each judgment or injunction entered against the licensee on the basis of conduct involving fraud, deceit or misrepresentation or a violation of any insurance law.

Conclusions of Law

24. The Commissioner has jurisdiction over Respondent as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
25. The Commissioner finds that Respondent's conduct in acquiring \$15,000.00 from Pennie Bunker by advising her that the money was an investment and that she would realize a large return in a short amount of time and that there was no risk

involved, but then using the monies to pay the operating expenses of C & I Benefit Solutions is a violation of K.S.A. 40-4909(a)(8).

26. The Commissioner finds that the Respondent violated K.A.R. 40-9-7 (b) and (c) by failing to notify KID within 30 days of the action taken against Respondent by the Securities Commissioner of the State of Kansas, which became final on May 24, 2007.
27. 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.
28. Accordingly, the Commissioner concludes sufficient grounds exist for the revocation of the insurance agent's license of Jimmie D. Maish 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 JIMMIE D. MAISH is hereby **REVOKED** effective the effective date of this Order.
2. **IT IS FURTHER ORDERED** that JIMMIE D. MAISH 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

Jimmie D. Maish, 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:

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 4th DAY OF AUGUST, 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 4th day of August, 2008, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Jimmie D. Maish
PO Box 57

In the Matter of the Kansas
Resident Insurance Agent's License of
Jimmie D. Maish

Augusta, KS 67010

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

NOTICE OF RIGHTS

Pursuant to K.S.A. §77-601 et seq. Jimmie D. Maish 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, Jimmie D. Maish 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 she served the above and foregoing Final Order on this 5th day of September, 2008, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Jimmie D. Maish
Post Office 57
August, Kansas 67010

_s/ Stacy R. Bond _____
Stacy R. Bond
Staff Attorney