

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

In the Matter of the Kansas Resident )  
Insurance Agent's License of ) Docket No. 3861-SO  
JOANN M. MOFFITT )  
NPN# 2082932 )

**NOTICE OF PROPOSED DEFAULT ORDER**

(Pursuant to K.S.A. 2006 Supp. 40-4909 and K.S.A. 77-520)

Pursuant to the authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 2006 Supp. 40-4909, and K.S.A. 77-520, the Presiding Officer hereby gives Notice of the Proposed Default Order revoking the Kansas Resident Insurance Agent's License of Joann M. Moffitt ("Respondent"). This Proposed Default Order shall become effective seven (7) days after service if Respondent does not file a written motion requesting the Proposed Default Order be vacated.

**STATEMENT OF GROUNDS**

**Findings of Fact**

The Commissioner has been shown the following facts:

1. Records maintained by the Kansas Insurance Department ("KID") indicate that Respondent is licensed as a Kansas Resident Insurance Agent to transact the business of insurance and has been so since April 5, 2006.
2. KID records further indicate a legal and mailing address for Respondent of 11658 S. Lewis Dr., Olathe, KS 66061-8462.
3. On June 27, 2008, KID issued a Summary Order proposing to revoke Respondent's license pursuant to K.S.A. 2007 Supp. 40-4909(a)(4); K.S.A. 2007 Supp. 40-4909(a)(7); K.S.A. 2007 Supp. 40-4909(a)(8); K.S.A. 2007 Supp. 40-

4909(a)(10); K.S.A. 2007 Supp. 40-4909(b); K.S.A. 2007 Supp. 40-2404 and K.S.A. 2007 Supp. 40-2,118.

4. Ms. Moffitt timely requested a hearing in the above-captioned matter on July 15, 2008, through her attorney Steven L. Imber.
5. Petitioner mailed a copy of the Notice of Pre-hearing Conference, listing the date and time of the pre-hearing conference of August 29, 2008 at 11:00 a.m., to Respondent's attorneys and Respondent on July 24, 2008.
6. On August 20, 2008, Respondent's attorney Steven L. Imber sent an email stating that he was no longer representing the Respondent in the matter before the Kansas Insurance Department.
7. On August 29, 2008 at 11:00 a.m., Ms. Moffitt failed to appear either in person or by telephone at the Hearing in the above-captioned matter.
8. KID moved for the issuance of a proposed default order revoking Respondent's license pursuant to K.S.A. 77-520.
9. The Hearing Officer took notice that it was 11:15 a.m. and that the Respondent has neither appeared for the pre-hearing conference, nor had she made any request to appear by telephone.
10. KID's request was granted.
11. The Summary Order is hereby granted and incorporated into this order as if set forth therein. The Hearing Officer finds that Respondent violated K.S.A. 2007 Supp. 40-4909(a)(4); K.S.A. 2007 Supp. 40-4909(a)(7); K.S.A. 2007 Supp. 40-4909(a)(8); K.S.A. 2007 Supp. 40-4909(a)(10); K.S.A. 2007 Supp. 40-4909(b);

K.S.A. 2007 Supp. 40-2404; and K.S.A. 2007 Supp. 40-2,118 as alleged in the Summary Order.

12. Respondent shall immediately forward her original Kansas Insurance Agent's License to the Kansas Insurance Department.

#### **Applicable Law**

13. K.S.A. 77-520 provides, in pertinent part:
  - (a) If a party fails to attend or participate in a prehearing conference, hearing or other stage of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order, including a statement of the grounds.
  - (b) Within seven days after service of the proposed default order, the party against whom it was filed may file a written motion requesting that the proposed default order be vacated and stating the grounds relied upon. During the time within which a party may file a written motion under this subsection, the presiding officer may adjourn the proceedings or conduct them without the participation of the party against whom a proposed default order was issued, having due regard for the interests of justice and the orderly and proper conduct of the proceedings.
  - (c) The proposed default order shall become effective after expiration of the time within which the party may file a written motion under subsection (b) unless a written motion to vacate the order is filed with the agency within such time. Upon receipt of a motion to vacate a proposed default order, the presiding officer shall either vacate the proposed order or issue the default order as proposed. If the presiding officer issues a default order as proposed the order shall become effective upon service.
  - (d) After a default order becomes effective, the presiding officer shall conduct any further proceedings necessary to complete the adjudication without the participation of the party in default and shall determine all issues in the adjudication, including those affecting the defaulting party.

#### **Conclusions of Law**

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, pursuant to K.S.A. 77-520, that Respondent is in default for failure to appear at the August 29, 2008 hearing in the above-captioned matter.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT** the Kansas Resident Insurance Agent's License of Joann M. Moffitt is hereby **REVOKED**.

**NOTICE OF RIGHTS**  
(Pursuant to K.S.A. 77-520)

Pursuant to K.S.A. 77-520, Respondent may file a written motion requesting that the proposed default order be vacated and stating the grounds relied upon. The proposed default order shall become effective after expiration of the time within which the party may file a written motion under subsection (b) unless a written motion to vacate the order is filed with the agency within such time. Upon receipt of a motion to vacate a proposed default order, the presiding officer shall either vacate the proposed order or issue the default order as proposed. If the presiding officer issues a default order as proposed, the order shall become effective upon service.

A petition for judicial review may be filed if this proposed default order becomes a Final Order, a petition for judicial review must be filed within thirty (30) days of service of a Final Order (Plus three (3) days for service by mail pursuant to K.S.A. §77-531). In the event Respondent 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. 9<sup>th</sup> Street  
Topeka, Kansas 66612

**IT IS SO ORDERED THIS 4th DAY OF SEPTEMBER, 2008, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**

In the Matter of the Kansas  
Resident Insurance Agent's License of  
JOANN M. MOFFITT



/s/ Robert M. Tomlinson  
Robert M. Tomlinson  
Assistant Commissioner of  
Insurance/Hearing Officer

Prepared By:

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

### Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing Notice of Final Default Order was served by placing the same in the United States Mail, first class, postage prepaid, on this 4th day of Sept, 2008, addressed to the following:

Joann M. Moffitt  
11658 S. Lewis Dr.  
Olathe, KS 66061-8462  
*Respondent*

And

Stacy R. Bond  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612  
*Counsel for the Kansas Insurance  
Department*

/s/ Jana L. Beethe  
Jana L. Beethe  
*Legal Assistant*

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

**In the Matter of the Kansas Resident            )**  
**Insurance Agent’s License of                    )**         **Docket No. 3861-SO**  
**JOANN M. MOFFITT                                )**  
**NPN# 2082932                                     )**

**SUMMARY ORDER**  
**(Pursuant to K.S.A. 2007 Supp. 40-4909, and K.S.A. 77-537)**

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 2007 Supp. 40-4909, the Commissioner hereby revokes the resident agent’s license of Respondent, Joann M. Moffitt (“Ms. Moffitt”). 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 has been shown the following:

1. Ms. Diane Robben (“Ms. Robben”) reported concerns regarding Ms. Moffitt apparently obtaining life insurance policies on Ms. Robben’s four grandchildren without her permission or the permission of the children’s mother. Ms. Robben stated that when she returned to work after Christmas vacation, Ms. Moffitt informed her that she had “got them.” Referring to the life insurance policies that she needed to full-fill her quota and be eligible to enter into a year end drawing.
2. Ms. Robben stated that further when she inquired as to how the policies were to be paid for, Ms. Moffitt told her not to worry about it as she had set up an EFT from an account and would make sure there were sufficient monies in the account to authorize the withdrawal. At that time she had Ms. Robben sign the EFT authorization.
3. Ms. Robben stated that she had not authorized the policies on her grandchildren and neither had the children’s mother, her daughter, Deedra Robben. Ms. Robben further stated that the following day she cancelled the EFT.

4. Ms. Robben further stated that Ms. Moffitt had signed the name of Deedra Robben to the policies without Deedra Robben's permission.
5. Deedra Robben informed Randy Adair, Chief Fraud Investigator for the Kansas Insurance Department that Ms. Moffitt contacted her when her step-mother, Diane Robben was out of town and stated that Diane and her father were taking out policies on her four children. Ms. Moffitt when on to state that as a result she needed the children's social security numbers. Deedra Robben stated that she believed Ms. Moffitt and gave her the information she requested.
6. Deedra Robben then went on to explain that the children's names were misspelled on the applications. Deedra stated that her daughter Catreena's name was spelled with a "K" instead of a "C" and that her last name was incorrectly listed as Robben when her last name is Carlson. That her daughter Merissa's name was misspelled with an "a" rather than an "e" and that her last name was also incorrectly listed as Robben, her last name is also Carlson. And that her daughter's Isabell's name was misspelled with an "e" on the end that was incorrect.
7. Both Diane Robben and Deedra Robben signed affidavits stating that the signature of Deedra Robben on the four life insurance applications are not that of Deedra Robben and that neither had given Ms. Moffitt permission to sign Deedra's name to the applications.
8. Dave Clark, District Manager for American Family and Michael Smith, American Family Compliance Officer discussed the allegations of Ms. Robben with Ms. Moffitt. During this discussing Ms. Moffitt admitted to Dave Clark and Michael Smith that she forged the signatures of Deedra and submitted the false applications to the company, she further admitted that she needed the applications to qualify for the contest and did not think Robben would mind if she took out the policies on Robben's grandchildren. Ms. Moffitt also admitted to obtaining the signature of Ms. Robben for an automatic withdrawal from Robben's checking account.
9. On May 28, 2008 Linda Kolega, American Family Agency Services Specialist contacted the Kansas Insurance Department and reported that they were investigating approximately 12 situations in which there is \$14,000.00 in missing premium money. Ms. Kolega further stated that it appeared that Ms. Moffitt had accepted premium money and then failed to forward it to the company and that Ms. Moffitt had changed the insured's return address to her own address so the insured would not receive overdue or cancellation notices.

10. On June 5, 2008, Linda Kolega forwarded to KID correspondence indicating that there were at least 13 instances in which Ms. Moffitt had misappropriated or mishandled premium money amounting to approximately \$15,000.00.
11. Kolega further stated that Ms. Moffitt was accepting the checks and depositing them into an account at First Financial Bank. However, this account is not the personal trust account of Ms. Moffitt and American Family did not have access to this account in order to obtain the premium money.
12. The following are the 13 situations discovered by American Family where Ms. Moffitt accepted premium money but failed to forward that money to American Family:
  - a. On March 9, 2007, \$788.64 was collected as premium from Hollis and Lucy Starr, and no policy was sent in.
  - b. On June 27, 2007, \$987.00 collected as premium from William and Lisa Detmer's mortgage company for renewal and was not forwarded.
  - c. On November 2, 2007, \$1231.00 accepted as premium from Diane Stenzel's mortgage company and was not forwarded.
  - d. On December 19, 2007, \$2782.00 in premium was collected from NE Kansas Drywall. The total premium was not forwarded to the company. On February 21, 2008 \$300.00 was applied as premium.
  - e. On January 16, 2007, Brian Kern gave \$1210.00 to Ms. Moffitt for premium. This was not forwarded to the company. On March 5, 2008, \$305.00 was applied to the premium.
  - f. On January 19, 2008, Ms. Moffitt accepted \$1235.00 in premium from Judy Leroy and not applied to account.
  - g. On February 26, 2008, \$3693.00 was collected as premium from Ron Piersee and no policy was issued.
  - h. On February 27, 2008, \$800.00 was collected as premium from Sarah Holmes mortgage company and the money was not forwarded.



- i. On February 28, 2008, \$619.00 was collected as premium from Joseph Barr and not applied to account.
- j. On February 28, 2008, \$958.00 was collected as premium from Sandra McGurk's mortgage company and was not forwarded.
- k. On March 3, 2008, \$1070.30 was collected as premium from Meghan Shafer. An automatic down payment of \$181.72 was taken from Moffitt's account and the difference of \$888.58 was never forwarded.
- l. On March 7, 2008, \$552.00 in premium was collected from Steve Weissinger and was not forwarded.
- m. On March 11, 2008, \$791.00 in premium was collected from Michael Arvine and was not applied to account.

**Applicable Law**

13. K.S.A. 2007 Supp. 40-4909(a) provides, in relevant 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:
    - (4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business.
    - (7) Admitted to or been found to have committed any insurance unfair trade practice or fraud in violation of K.S.A. 40-2404 and amendments thereto.
    - (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.
    - (10) Forged another person's name to an application for insurance or to any document related to an insurance transaction.
  - (b) 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 insurable interests of the public are not properly served under such license.

14. K.S.A. 2007 Supp. 40-2404 states, in pertinent part:

(11) *Misrepresentation in insurance applications.* Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual.

15. K.S.A. 2007 Supp. 40-2,118 states, in pertinent part:

(a) For purposes of this act a “fraudulent insurance act” means an act committed by any person who , knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written statement as part of, or in support of an application for the issuance . . .which such person knows to contain materially false information concerning any fact material there top or conceals , for the purpose of misleading, information concerning any fact material thereto.

### **Conclusions of Law**

16. The Commissioner has jurisdiction over Ms. Moffitt as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
17. The Commissioner finds that Ms. Moffitt’s conduct in forging the signature of Deedra Robben to four life insurance polices constitutes a violation of K.S.A. 40-4909(a)(10).
18. The Commissioner finds that Ms. Moffitt committed fraud in making false statements or representations (in regards to signing the signature of Deedra Robben) on four separate life insurance policy applications for the purpose of

obtaining a fee, commission, money or other benefit is a violation of K.S.A. 40-2404(11).

19. The Commissioner finds that Ms. Moffitt's conduct in forcing Diane Robben to sign an EFT to pay for the life insurance policies and submitting four life insurance policies to a company with forged signatures constitutes coercive and dishonest practice in violation of K.S.A. 40-4909(a)(8).
20. The Commissioner finds that Ms. Moffitt committed a fraudulent insurance act by presenting to American Family four life insurance policies that purported to have been obtained by Deedra Robben when in fact Deedra Robben had not requested the policies nor had the policies been signed by Deedra Robben, but by Ms. Moffitt without permission in violation of K.S.A. 40-2,118.
21. The Commissioner finds that Ms. Moffitt violated K.S.A. 2007 Supp. 40-4909(a)(7) by submitting false applications for life insurance for the sole purpose of obtaining the benefit of being placed in a drawing.
22. The Commissioner finds, pursuant to K.S.A. 40-4909(b), that the insurable interests of the public are not properly served under Ms. Moffitt's license.
23. Accordingly, the Commissioner concludes sufficient grounds exist for the revocation of the insurance agent's license of Joann M. Moffitt pursuant to K.S.A. 40-4909(a) and (b).
24. The Commissioner finds that the acts of the respondent present an immediate danger to the public safety and welfare, and that the respondent's ongoing misconduct gives rise to a reasonable belief that such acts will be repeated and that immediate action is necessary for the protection of the public.

**IT IS THEREFORE ORDERED, BY THE COMMISSIONER OF INSURANCE, that:**

1. The Kansas Resident Insurance Agent's License of JOANN

M. MOFFITT is hereby **REVOKED** effective the effective date of this Order.

2. **IT IS FURTHER ORDERED** that JOANN M. MOFFIT 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.

3. The Commissioner of Insurance retains jurisdiction over the subject matter of this proceeding and over the parties for the purpose of entering such further order or orders as may be deemed proper.

**NOTICE AND OPPORTUNITY FOR HEARING**

Joann M. Moffitt, 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. 9<sup>th</sup> 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. 9<sup>th</sup> St.  
Topeka, Kansas 66612

**IT IS SO ORDERED THIS 27th DAY OF JUNE, 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 27th day of June, 2008, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Joann M. Moffitt  
11658 S. Lewis Dr.  
Olathe, KS 66061-8462

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

**NOTICE OF RIGHTS**

Pursuant to K.S.A. §77-601 et seq. Joann M. Moffitt 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, Joann M. Moffitt 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 22nd day of September, 2008, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Joann M. Moffitt  
11658 South Lewis Drive  
Olathe, Kansas 66061-8462

\_s/ Stacy R. Bond \_\_\_\_\_  
Stacy R. Bond  
Staff Attorney