

**FINAL ORDER**  
**Effective: 1-20-10**

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

In the Matter of the Kansas Nonresident )  
Insurance Agent's License of ) Docket No. 4075- SO  
**TIMOTHY W. NEWKIRK** )  
NPN 7438464 )

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

Pursuant to authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-4909, the Commissioner hereby proposes to find facts and impose sanctions against the nonresident agent’s license of Timothy W. Newkirk (“Respondent”) by way of Summary Order as provided by K.S.A. 77-537. 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 from KID files and Respondent’s statements to staff:

1. Records maintained by the KID indicate that the Respondent is licensed as a nonresident agent to transact the business of insurance in Kansas and has been so licensed since May 27, 2005.
2. KID records further indicate a legal and mailing address of 1307 Western Ave., Green Bay, WI 54303.
3. On or about September 30, 2009 a review of the NAIC State Producer Licensing Report revealed that Respondent’s Wisconsin resident license was denied for

“Late or Incomplete Response” to a “Complaint Investigation”. The effective date of the denial was April 10, 2009.

4. Respondent has failed to report the discipline on his license to KID.
5. On November 9, 2009 a letter was mailed to Respondent at the above listed mailing address, outlining the above facts. The letter was not returned and Respondent has not responded to the facts contained in the letter.

#### **Applicable Law**

6. K.S.A. 40-4909(a) provides, in relevant part:

“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 and regulation promulgated hereunder
  - (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. . . .”

7. The Commissioner may revoke any license issued under the Insurance Agents Licensing 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. K.S.A. 40-4909(b).

8. A producer must inform the Commissioner of Insurance within 30 days of any discipline against a producer's license. K.A.R. 40-7-9(a).

#### **Conclusions of Law**

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

Commissioner finds, based on the facts contained in paragraphs 3 and 4, that Respondent has demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business.

10. Based on the Respondent's discipline and failure to report the discipline, the Commissioner concludes that sufficient grounds exist for the revocation of Respondent's insurance agent's license pursuant to K.S.A. 40-4909(b) because such license is not properly serving the interests of the insurer and the insurable interests of the public.

11. 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 the law and the protection of the public interest does not require the KID to give notice and opportunity to participate to persons other than Respondent.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT** the Kansas nonresident insurance agent's license of Timothy W. Newkirk is hereby **REVOKED. It is further ordered,** that Timothy W. Newkirk 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 RIGHTS**  
(Pursuant to K.S.A. 77-542)

Timothy W. Newkirk is entitled to a hearing pursuant to K.S.A. 77-537 and K.S.A. 77-542, the Kansas Administrative Procedure Act. If Respondent desires a hearing, he must file a written request for a hearing with:

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

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

If a hearing is not requested in the time and manner stated above, this Summary 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 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 28th DAY OF DECEMBER, 2009, 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 serviced a true and correct copy of the above and foregoing Notice and Summary Order on this 28th day of December, 2009, by placing the same in the United States Mail, first class postage prepaid, addressed to the following:

Timothy W. Newkirk  
1307 Western Ave.  
Green Bay, WI 54303

/s/ John R. Dowell \_\_\_\_\_  
John R. Dowell  
Staff Attorney