

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

In the Matter of the Kansas Resident)
Insurance Agent's License of) Docket No. **4185--SO**
JODI L. CLARK)
NPN #8204732)

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 revoke the resident insurance agent's license of Jodi L. Clark ("Respondent") by way of Summary Order as provided by K.S.A. 77-537.

Findings of Fact

1. Records maintained by the Kansas Insurance Department ("KID") reflect that Respondent is licensed as a resident agent to transact the business of insurance in Kansas and has been so licensed since September 15, 2004.
2. KID records further indicate that Respondent's legal and mailing address is 10820 W. Lotus St., Wichita, Kansas 66209.
3. Following investigation, the Commissioner has no reason to believe that protection of the public interest requires the Commissioner to give notice and opportunity to participate to anyone other than Respondent.
4. Following investigation, the Commissioner finds evidence sufficient to support the following facts:
5. On or about April 23, 2010, KID received notice from a senior auditor with Farmers' Insurance Group that Respondent, a former Farmers agent, had embezzled

premium prior to her resignation in November 2009. According to the audit, \$2,574.16 in check and cash premium payments made by twelve insureds from August through October, 2009, had not been deposited.

6. In response to KID's inquiry, Respondent denied taking premium and attributed the discrepancies to others who had access to her office and computer system password in her absence.

7. Through further investigation, KID obtained additional information and documentation supporting the following:

a. Respondent left the Farmers office on October 22, 2009, and never returned to the building.

b. After Respondent's departure, staff began getting inquiries from customers about missing payments, and on or about October 27, 2009, the district manager requested an audit and changed the pass code for Respondent's computer sign on.

c. Respondent made a cash deposit of \$346.00 to the Farmers sweep account on October 29, 2010. The deposit included payment on Respondent's personal policy. Deposits are required to be made within 48 hours.

d. After her access to the computer system was terminated but before IT was notified, Respondent contacted the help desk and had her password reset.

e. Respondent's signature appears on endorsement of a check in the amount of \$377.00, dated October 21, 2009, and made out to "Clark Family Insurance," endorsed for deposit only to First Choice Credit Union account

number [REDACTED]. Farmers has no credit union accounts, and the payment was not posted to the consumer's account.

f. On November 9, 2009, Respondent deposited a check from consumer Harris which was not applied to the consumer's account but was applied to accounts of three other consumers whose payments were already posted but not deposited.

g. Receipts for cash payments from consumers [REDACTED] [REDACTED] and [REDACTED] show Respondent's first name and agent number (47). The payments were not posted to the consumers' accounts.

h. The evidence establishes that Respondent misappropriated \$740.92 in premium payments involving four consumers.

8. The remainder of the \$2572.16 in missing premium identified by Farmers' audit, or \$1831.24, involved Respondent's accounts but available evidence does not trace the funds to Respondent personally.

Applicable Law

9. 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. . . (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. . . ." K.S.A. 40-4909(a).

10. In addition, 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).

Conclusions of Law

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

12. The Commissioner finds, based on the findings of fact, that Respondent has improperly withheld, misappropriated, or converted money or property received in the course of doing insurance business.

13. The Commissioner also finds that Respondent has demonstrated untrustworthiness or financial irresponsibility in the conduct of business.

14. Based on the foregoing findings, the Commissioner concludes that sufficient grounds exist for the revocation of Respondent's insurance agent's license pursuant to K.S.A. 2004 Supp. 40-4909(a).

15. The Commissioner further concludes Respondent's license may be revoked because such license is not properly serving the interests of the insurer and the insurable interests of the public.

16. 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, the protection of the public interest does not require the KID to give notice and opportunity to participate to persons other than Respondent, and after investigation, KID believes in good faith that the allegations will be supported to the applicable standard of proof.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas resident insurance agent's license of **Jodi L. Clark** is hereby **REVOKED**. It is further ordered, that **Jodi L. Clark** 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 on and after the effective date of this order.

IT IS SO ORDERED THIS __9th__ DAY OF AUGUST, 2010, 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

NOTICE OF RIGHTS TO HEARING AND REVIEW

Within fifteen (15) days of the date of service of this Summary Order, Respondent may submit a written request for a hearing pursuant to K.S.A. 77-537 and K.S.A. 77-542. Any request for a hearing should be addressed to the following:

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

If a hearing is requested, the Kansas Insurance Department will serve notice 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.

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. 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. 9th Street
Topeka, Kansas 66612

Certificate of Service

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing **Summary Order** and accompanying **Notice of Rights** on this ___9th___ day of Aug. 2010, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Jodi L. Clark
10820 W. Lotus St.
Wichita, KS 66209

_/s/ Brenda J. Clary _____
Brenda J. Clary
Staff Attorney