

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of) Docket No. **4186--SO**
TIMOTHY R. DIERKSEN)
NPN #1628277)

AMENDED 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 Kansas resident insurance agent's licenses of TIMOTHY R. DIERKSEN ("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 October 4, 1989.
2. KID records further indicate that Respondent's legal and mailing address is 500 N. Walnut Street, Medicine Lodge, KS 67104.
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 the respondents.
4. Following investigation, the Commissioner finds evidence sufficient to support the following findings of fact:
5. Respondent previously served as a conservator of the estate of his mother, Joan Pentz.
6. On January 16, 2009, Respondent failed to appear for a hearing on his Final Accounting in his mother's case, *In the Matter of the Conservatorship of Joan K. Pentz*, Barber County District Court case number 2007 PR 12. The Court found Respondent was present in court when the hearing was scheduled, approved notice, and proceeded to hearing.

7. After hearing the testimony of Respondent's mother, reviewing documentary evidence, and hearing the statements of counsel for the conservatee and for the co-conservators, the Court found Respondent had converted assets of the conservatee's estate to his own use. The Court entered judgment for the amount of \$111,009.02, which was double the value of assets converted, plus attorney fees.
8. A journal entry reflecting the Court's findings and order was filed March 16, 2010.
9. Respondent did not report the judgment to KID.
10. In a letter mailed to Respondent's address of record on June 29, 2010, counsel for KID informed Respondent of the allegations contained in paragraphs 5 through 7 above and invited Respondent to reply within 15 business days if he disputed them.
11. By email dated July 4, 2010, Respondent denied he acted without his mother's permission or "as a fraudulent or dishonesty matter" and stated he was "in the process of getting this corrected."
12. Counsel for KID replied that Respondent should forward any further court order reflecting a change in findings or judgment.
13. To date, KID has not been provided any indication that the order has been set aside or modified, and no appeal has been docketed with the appellate courts.

Applicable Law

14. 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 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. . . ." K.S.A. 40-4909(a).
15. K.A.R. §40-7-9(c) requires a licensed insurance agent to report to the Commissioner within 30 days "any judgment or injunction entered against the licensee on the basis of conduct involving fraud, deceit, or misrepresentation, or a violation of any insurance law."

16. 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

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

18. The Commissioner finds, based on the facts contained in paragraphs 5 through 13 above, that Respondent has used fraudulent, coercive, or dishonest practices and demonstrated untrustworthiness or financial irresponsibility in the conduct of his mother's business while serving as a conservator.

19. Further, Respondent has failed to report the judgment to the Commissioner within 30 days as required by K.A.R. §40-7-9(c).

20. 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. 40-4909(a).

21. The Commissioner further concludes Respondent's license may be revoked pursuant to K.S.A. 40-4909(b) because the license is not properly serving the interests of the insurer and the insurable interests of the public.

22. 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 Respondents, 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 Timothy R. Dierksen is hereby **REVOKED. It is further ordered,** that Timothy R. Dierksen 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 __12th__ 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 serviced a true and correct copy of the above and foregoing **Amended Summary Order** and accompanying **Notice of Rights** on this ___12th___ day of August 2010, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Timothy R. Dierksen
500 N. Walnut Street
Medicine Lodge, KS 67104

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