

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of) Docket No. **4175--SO**
LAM M. PHAN)
NPN #8162894)

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 nonresident insurance agent's license of Lam M. Phan ("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 nonresident agent to transact the business of insurance in Kansas and has been so licensed since October 7, 2005.
2. KID records further indicate a legal address of 4415 N. Fuller Ave., Kansas City, MO 64117-1749, and mailing address of Farmers Insurance, 3624 Independence Ave., Kansas City, MO 64124-2730. For reasons stated below, KID believes the mailing address is no longer current and likely to provide actual notice of this action.
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 May 12, 2010, KID received notice from Farmers' Insurance Group that Respondent's agency contract had been terminated following an audit.
6. The report detailed that Respondent had, over a period of months, credited premium payments made by insureds and delayed deposits of cash and check payments, using cash for other purposes and depositing premium payments in arrears.
7. Respondent admitted to the auditor and in a written statement that she had "lost" some cash premium payments. Respondent stated she intended to repay the outstanding premium but did not have the funds to do so and used new premium payments to cover outstanding obligations.
8. As of May 12, 2010, Respondent's deposits were \$1367.43 in arrears.
9. Further, Respondent manipulated multiple personal insurance policies and payment schedules to maintain insurance without paying premium valued at \$1086.76. and.
10. In a letter mailed to Respondent's legal address of record on June 8, 2010, counsel for KID informed Respondent of the foregoing information and invited Respondent to reply within 15 business days if she disputed it.
11. To date, Respondent has not replied.

Applicable Law

12. 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).

13. 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

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

15. The Commissioner finds, based on the facts contained in paragraphs 5 through 9, that Respondent has improperly withheld, misappropriated, or converted money or property received in the course of doing insurance business.

16. The Commissioner also finds that Respondent has used dishonest practices and demonstrated untrustworthiness or financial irresponsibility in the conduct of business.

17. 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).

18. 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.

19. 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 Lam M. Phan is hereby **REVOKED. It is further ordered,** that Lam M. Phan 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 JULY 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 **Summary Order** and accompanying **Notice of Rights** on this _____12th_____ day of July 2010, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Lam M. Phan
4415 N. Fuller Ave.
Kansas City, MO 64117-1749

And

Lam M. Phan
Farmers Insurance
3624 Independence Ave.
Kansas City, MO 64124-2730

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

Certificate of Service

The undersigned hereby certifies that she serviced a true and correct copy of the above and foregoing **Summary Order** and accompanying **Notice of Rights** on this 21st day of July 2010, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Lam M. Phan
5921 NE 42nd Street
Kansas City, MO 64117-1749

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