

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of) Docket No. **4300--SO**
ADAM D. APPELL)
NPN 14074260)

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 nonresident insurance agent's license of Adam D. Appell ("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 November 23, 2009.
2. KID records further indicate Respondent's legal and mailing address is Unit 307, 1305 Coconino Road, Ames, IA 50014-8047.
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 respondent.
4. Following investigation, the Commissioner finds evidence sufficient to support the following findings of fact:

5. On November 20, 2009, Respondent submitted an electronic Application for Kansas Resident Individual Insurance Producer License (“Application”) to the Kansas Insurance Department (KID).
6. Question 1 under Item 37 asks, “Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?”
7. Respondent answered “No.”
8. KID issued a Kansas nonresident insurance agent to Respondent on November 23, 2009.
9. Respondent was convicted of felony theft on November 22, 2004, in Warren County, Iowa, District Court Case Number FECR022907, misdemeanor forgery on March 3, 2005, in Polk County, Iowa, District Court Case Number FE189760, and misdemeanor theft on June 14, 2007, in Polk County District Court Case Number SMAC 289800.
10. Because of the convictions, the California Department of Insurance denied Respondent’s application for an insurance broker-agent license, effective April 22, 2010, and Respondent reported the action to KID on the same date.
11. Respondent’s insurance producer licenses in Virginia and West Virginia were revoked, effective October 21, 2010, and February 24, 2011, respectively, for criminal history, misstatement on application, and failure to report other state action.
12. Respondent did not report the Virginia and West Virginia actions to the Kansas Insurance Department within 30 days as required by K.A.R. §40-7-9(a) and has not reported them to date.

13. By letter of April 20, 2011, counsel for KID wrote to Respondent at his mailing address of record and invited Respondent to reply within 15 business days if he disputed the above.

14. To date, the letter has not been returned and Respondent has not replied; thus, the foregoing facts are deemed undisputed.

Applicable Law

15. K.S.A. 2010 Supp. 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:

(1) Provided incorrect, misleading, incomplete or untrue information in the license application.

(2) Violated: (A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder;

(C) any insurance law or regulation of another state; . . .

(2) Obtained or attempted to obtain a license under this act through misrepresentation or fraud.

(6) Been convicted of a misdemeanor or felony. . . .

(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.

(9) Had an insurance agent license, or its equivalent, denied, suspended or revoked in any other state, district or territory.” K.S.A. 2010 Supp. 40-4909(a).

16. K.A.R. §40-7-9 requires a licensed agent to report to the Commissioner within 30 days any disciplinary action against the agent’s license by the insurance regulatory agency of another jurisdiction.

17. 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

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

19. The Commissioner finds, based on the facts contained in paragraphs 5 through 9, that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(1) and/or (a)(3) because Respondent provided incorrect and misleading or fraudulent information on his license application.

20. The Commissioner finds, based on the facts contained in paragraphs 11 and 12, that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent has violated K.A.R. §40-7-9(a) by failing to report a disciplinary action against his insurance agent license by another state.

21. The Commissioner finds, based on the findings contained in the California order and documents establishing the criminal convictions, that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(2)(C) because Respondent has violated the insurance laws of another state.

22. The Commissioner finds, based on the findings contained in the documents establishing the criminal convictions, that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(6) because Respondent has been convicted of misdemeanor and felony criminal offenses.

23. Further, Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(8) because the crimes of conviction constitute fraudulent and dishonest acts.

24. In addition, the Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(9) because Respondent has had an insurance license denied, suspended, or revoked in another state.

25. 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).

26. The Commissioner further concludes Respondent's license may be revoked 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.

27. 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.

Policy to be Served

28. Before issuing an insurance agent license, the Commissioner must determine that the applicant is qualified and has not committed any act that would be grounds for denial, suspension, or revocation. K.S.A. 40-4905(b). Further, 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 the license. The following action is appropriate to promote the security and integrity of the insurance business and protect insurance consumers by licensing, or continuing to license, persons or entities to sell, solicit, or negotiate insurance in the State of Kansas only if their conduct indicates they are both qualified and trustworthy.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas nonresident insurance agent's license of **ADAM D. APPELL** is hereby **REVOKED**. **It is further ordered**, that **ADAM D. APPELL** 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 __31st__ DAY OF MAY 2011, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/ Sandy Praeger
Sandy Praeger
Commissioner of Insurance

BY:

/s/ Zachary J.C. Anshutz
Zachary J.C. Anshutz
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:

Zachary J.C. Anshutz, 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

Zachary J.C. Anshutz, 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 ___31st___ day of May 2011, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Adam D. Appell
Unit 307
1305 Coconino Road
Ames, IA 50014-8047

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