

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

In the Matter of the Kansas Resident)
Insurance Agent's License of)
GUADALUPE S. CHAVEZ,) Docket No. **4327--SO**
NPN 7381198.)

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 Guadalupe S. Chavez ("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 was licensed as a resident agent to transact the business of insurance in Kansas on April 17, 2007, and remained continuously licensed until she surrendered her license on June 13, 2011.
2. In addition, Respondent held a motor club license from 2002 until April 2007.
3. Respondent's legal and mailing address of record is 6000 E. 60th St. S, Derby, KS 67036-9290.
4. 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.
5. Following investigation, the Commissioner finds evidence sufficient to support the following facts:
6. On July 22, 2010, Shelter Insurance terminated Respondent's contract for misappropriation of premium.
7. Shelter reported suspected fraud to KID as required by K.S.A. 40-2,118, and subsequently supplied an audit report.

8. According to the audit, Respondent diverted premium payments and refund checks issued to consumers for personal use and to cover unremitted premium and pay renewal premium for unrelated life insurance policies.
9. At the time of the audit, a total of \$8586.63 in unremitted premium remained outstanding.
10. By letter dated June 1, 2011, and mailed to Respondent's mailing address of record, counsel for KID invited Respondent to reply if she disagreed with the foregoing statements.
11. In response, Respondent stated that working for Shelter had been a mistake and requested her insurance agent license be cancelled.
12. Subsequently, Allstate Insurance Company notified KID of multiple consumer complaints alleging that the consumers paid premium to Respondent but received notice of cancellation or notice of premium due.
13. Allstate's investigation supported the allegations.
14. In addition, the investigation revealed that Respondent had written her personal auto and homeowners policies using inaccurate information.
15. According to Allstate, Respondent was not affiliated with the company after December 2010 but continued to represent herself as an Allstate agent.
16. KID records reflect that Respondent's appointment as an agent for Allstate was cancelled effective April 13, 2011.

Applicable Law

17. 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. 2010 Supp. 40-4909(a).
18. 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. 2010 Supp. 40-4909(b).

19. Voluntary surrender of a license does not deprive the Commissioner of jurisdiction or right to take disciplinary action against the license. K.S.A. 2010 Supp. 40-4909(e).

20. “No person whose license as an agent or broker had been suspended or revoked shall be employed by any insurance company doing business in this state either directly, indirectly, as an independent contractor or otherwise to negotiate or effect contracts of insurance, suretyship or indemnity or perform any act toward the solicitation of or transaction of any business of insurance during the period of such suspension or revocation.” K.S.A. 2010 Supp. 40-4909(g).

Conclusions of Law

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

22. The Commissioner finds that Respondent has improperly withheld, misappropriated, or converted money or property received in the course of doing insurance business.

23. The Commissioner also finds from the same facts that Respondent has used fraudulent or dishonest practices and demonstrated untrustworthiness or financial irresponsibility in the conduct of business.

24. Based on the foregoing findings, the Commissioner concludes that sufficient grounds exist for the revocation of Respondent’s insurance agent license pursuant to K.S.A. 2010 Supp. 40-4909(a).

25. Further, the Commissioner finds that Respondent’s license should be revoked pursuant to K.S.A. 40-4909(b) because it was not serving the interests of the insurer or the insurable interests of the public.

26. 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.

Policy to be Served

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.

THE COMMISSIONER OF INSURANCE THEREFORE ORDERS that the Kansas resident insurance agent's license of **GUADALUPE S. CHAVEZ** is hereby **REVOKED**, and **GUADALUPE S. CHAVEZ** shall **CEASE and DESIST** from the sale, solicitation, or negotiation of insurance, receiving compensation deriving from the sale, solicitation, or negotiation of insurance conducted on and after the effective date of this order, or performing any act toward the solicitation of or transaction of any business of insurance from and after the effective date of this order.

IT IS SO ORDERED THIS 20th DAY OF JUNE 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 20th day of June 2011 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Guadalupe S. Chavez
6000 E. 60th St. S
Derby, KS 67036-9290

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