

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

In the Matter of the Kansas Resident                    )  
Insurance Agent's License of                            )  
**SUSAN KAY DAVIS**    )  
NPN #6105855    )

Docket No. **4226--CO**

**CONSENT AGREEMENT AND FINAL ORDER**

Pursuant to the authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 40-103 and in accordance with K.S.A. 40-4901 *et seq.*, and K.S.A. 77-501 *et seq.*, the Commissioner hereby accepts the stipulations of the parties and imposes sanctions against the Kansas resident insurance agent's license of Susan Kay Davis ("Respondent"). This Consent Agreement shall become effective as a Final Order, without further notice when signed by the Commissioner or her designee and filed of record with the Kansas Insurance Department ("KID").

**Findings of Fact**

1. Respondent is licensed as a resident agent to transact the business of insurance in Kansas and has been so licensed since May 9, 1991.
2. Respondent's legal and mailing address is 2404 Park Street, Doge City, KS 67801.
3. On or about September 28, 2010, KID received notice from American Family Life Assurance Company of Columbus ("Aflac") that Respondent, while appointed as an agent of Aflac, had submitted applications for coverage of fictitious persons in order to obtain advance commissioners.

4. Respondent admitted, both to Aflac and to KID, that she submitted applications for group coverage of fictitious persons in order to obtain advance commissions with the intent of cancelling the coverage prior to the first billing.
5. Respondent admitted she submitted applications in the names of five fictitious persons.
6. Respondent has expressed regret and asserted her poor health and family matters as mitigating circumstances.
7. Respondent has had the advice of counsel and understands her right to have a hearing on the facts and disposition and to seek review of any adverse order in this matter.
8. Respondent expressly waives hearing and stipulates that sufficient evidence exists to support action against her license up to and including revocation.
9. Respondent further waives administrative and judicial review.
10. Respondent agrees to accept suspension of her license for a minimum of ninety (90) days from the effective date of this order and to complete a minimum of twelve (12) hours of education, subject to KID's approval, on the topic of insurance fraud prior to reinstatement.
11. Respondent further agrees that a fine is an appropriate consequence of misconduct committed for financial benefit.
12. In light of Respondent's disclosures and waiver of procedural protections in the instant matter, KID agrees that it will neither file criminal charges nor advocate that any other federal or state official prosecute any potential criminal charge supported by the foregoing facts.

### Applicable Law

13. 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 . . .

(7) Admitted to or been found to have committed any insurance unfair trade practice or fraud in violation of K.S.A. 40-2404 and amendments thereto [or]

(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).

14. “Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual” is an unfair trade practice. K.S.A. 40-2404(11).

15. 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).

16. In lieu of taking action under subsection (a), the Commissioner may censure the licensee or impose an administrative penalty up to a maximum of \$500 for each violation or \$1000 for each violation if the licensee knew or reasonably should have known the act could give rise to a disciplinary proceeding under subsection (a).

17. The Commissioner may impose a monetary penalty of not more than \$1000 per violation, or \$5000 per knowing violation or suspend or revoke the license of any person who violates the unfair trade practices act. K.S.A. 40-2407(a).

**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. Based on the undisputed facts, the Commissioner finds that Respondent's license may be revoked or suspended pursuant to K.S.A. 40-4909(a)(7) because Respondent has violated K.S.A. 40-2404(a), a provision of the unfair trade practices act, by submitting fictitious applications for insurance in order to obtain advance commissions.

20. In addition, the Commissioner concludes Respondent's license may be revoked or suspended pursuant to K.S.A. 40-4909(a)(8) because Respondent has used a dishonest practice and demonstrated untrustworthiness in the conduct of business.

21. The Commissioner further finds that a monetary penalty for each of five fictitious applications is authorized and appropriate.

22. The Commissioner concludes that Respondent regrets and accepts responsibility for her misconduct, and thus, Respondent, insurers, and the insurable interests of the public would benefit from remedial measures rather than revocation of Respondent's license.

**Stipulation**

The undersigned stipulates and agrees to the foregoing findings of fact and conclusions of law and waives her rights to administrative hearing and judicial review of the Commissioner's Order.

_____ /s/ Susan Kay Davis Susan Kay Davis Respondent	_____ Date 12/10/10
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Prepared by:

Approved by:

/s/ Brenda J. Clary  
Brenda J. Clary  
KID Staff Attorney

/s/ Linda L. Eckelman  
Linda L. Eckelman  
Attorney for Respondent

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas resident insurance agent's license of **Susan Kay Davis** is hereby suspended for ninety (90) days from this date.** Prior to reinstatement, Susan Kay Davis shall complete twelve (12) hours of continuing education, over and above the hours required for her next license renewal, on the topic of insurance fraud and shall pay a monetary penalty of five hundred dollars (\$500).

**IT IS SO ORDERED THIS 16<sup>th</sup> DAY OF DECEMBER 2010, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



/s/ Sandy Praeger  
Sandy Praeger  
Commissioner of Insurance

BY:

/s/ Robert M. Tomlinson  
Robert M Tomlinson  
Assistant Commissioner of Insurance  
Presiding Officer

**NOTICE**

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. 9<sup>th</sup> Street  
Topeka, Kansas 66612

**Certificate of Service**

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing **Consent Agreement and Final Order** and accompanying **Notice of Rights** on this   16th   day of December 2010, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Susan Kay Davis  
c/o Linda L. Eckelman  
Attorney at Law  
116 Military Avenue  
Dodge City, KS 67801

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