

FINAL ORDER

Effective: 9-30-11

BEFORE THE COMMISSIONER OF INSURANCE OF THE STATE OF KANSAS

In the Matter of the Kansas Nonresident)
Insurance Agent's License of) Docket No. **4361--SO**
ZACHARIAH J. FETTER)
NPN 1912609)

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 Zachariah J. Fetter ("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 September 15, 2009.
2. Respondent was previously licensed in Kansas from April 1, 2002, until the license lapsed on August 8, 2005.
3. KID records further indicate Respondent's legal address is in Omaha, Nebraska, and his mailing address is 3738 S. 149th Street, #115, Omaha, NE 68138.
4. Respondent was appointed as an agent for American Family Life Assurance Company of Columbus ("Aflack") effective September 15, 2009, and that appointment was cancelled effective May 19, 2011.
5. Aflack notified KID as required by K.S.A. 40-4913, that Respondent's contract had been terminated for cause.
6. 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.
7. Following investigation, the Commissioner finds evidence sufficient to support the following findings of fact:

8. According to information provided to KID by Aflack, Respondent submitted applications for insurance policies that were not requested or authorized by the purported applicants.

9. By letter dated August 10, 2011, and addressed to Respondent at his mailing address of record, counsel for KID recited the foregoing facts and invited Respondent to reply within 15 business days if he disputed the facts.

10. The letter was returned as not deliverable. Thus the facts are deemed undisputed.

Applicable Law

11. 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: . . .

(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).

12. 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

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

14. The Commissioner finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has engaged in fraudulent, coercive, or dishonest practices.

15. 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).

16. 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.

17. 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

18. 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 **ZACHARIAH J. FETTER** is hereby **REVOKED**. **It is further ordered,** that **ZACHARIAH J. FETTER** shall **CEASE and DESIST** from the sale, solicitation, or negotiation of insurance, doing any act toward 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 SEPTEMBER 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 __12th__ day of September 2011, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Zachariah J. Fetter
3738 S. 149th Street, #115
Omaha, NE 68138

With an additional copy mailed to the following:

Zachariah J. Fetter
14820 Giles Road, #105
Omaha, NE 68138

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