

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of) Docket No. **4371--SO**
CINDY E. FITZGERALD)
NPN 7429819)

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 Cindy E. Fitzgerald ("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 3, 2009.
2. KID records further indicate Respondent's legal address is in Kearney, Missouri, and her mailing address is PO Box 1031, Kearney, MO 64060.
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. Coventry Health Care, Inc., notified KID that the company had terminated Respondent's appointment for cause, effective August 23, 2011.
6. The company's investigation reflects that Respondent submitted applications on behalf of prospective insureds who did not authorize the applications and forged their signatures on the applications.
7. By letter dated October 5, 2011, and addressed to Respondent's address of record, counsel for KID recited the foregoing facts and invited Respondent to reply if the facts were not correct.

8. On October 17, 2011, the letter was returned with a postal service notation that forwarding time had expired and a forwarding address.
9. On October 18, 2011, counsel for KID mailed a second letter to the forwarding address and requested a response by October 28, 2011.
10. To date, Respondent has not replied, and the letter has not been returned. 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: . . .

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

(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. . . .

(10) Forged another person’s name to an application or other document related to an insurance transaction.” K.S.A. 2010 Supp. 40-4909(a).

12. K.A.R. §40-7-9(f) requires a licensed agent to report to the Commissioner within 30 days each change of residential address.
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 7 and 8, 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 change of address.

16. The Commissioner finds, based on the Coventry investigation report, that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(8) and (a)(10) because Respondent has forged signatures on applications and used a fraudulent or dishonest practice in the course of doing insurance 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. 40-4909(a).

18. 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.

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.

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. K.S.A. 40-4909(b). Thus, the Commissioner is charged with safeguarding the security and integrity of the insurance business and protecting 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 following action is both necessary and sufficient to serve that purpose.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas nonresident insurance agent's license of **CINDY E. FITZGERALD** is hereby **REVOKED**. **It is further ordered**, that **CINDY E. FITZGERALD** 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 ____7th____ DAY OF NOVEMBER 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 7th day of November 2011, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Cindy E. Fitzgerald
411 Wildflower Lane
Kearney, MO 64060

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