

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

In the Matter of the Kansas Resident)
Insurance Agent's License of)
MICHAEL J. FLORES) Docket No. **4368--SO**
NPN 6113005.)

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 Michael J. McKelvey ("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 currently licensed as a resident insurance agent in the state of Kansas and has been so licensed since April 22, 1999.
2. Respondent's legal and mailing address is 1546 N. Sheridan Street, Wichita, KS 67203-1753.
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 Respondent.
4. Following investigation, the Commissioner finds evidence sufficient to support the following facts:
5. Based on an investigation by the Office of the Kansas Securities Commissioner, Respondent was charged in Sedgwick County, Kansas, District Court case number 2011-CR-612-FE with six felony counts of securities fraud.
6. Each count alleges that Respondent engaged in a fraudulent or deceitful act or practice or misrepresented facts in connection with sales of securities from May 25, 2005, through March 10, 2010.

7. Evidence supporting each count indicates that Respondent solicited investments in promissory notes from insurance clients.
8. Respondent falsely represented that the investment would not be at risk and failed to disclose to these investors that the investment was in his own insurance business, Central States Financial, Inc., or that Respondent and the business were subject to multiple civil judgments and a federal tax lien and state tax warrant.
9. Respondent's case remains pending.
10. At least seven civil judgments have been entered against Respondent in Ford and Sedgwick County, Kansas, and none have been reported to KID pursuant to K.A.R. 40-7-9(c).
11. Respondent was not licensed to offer or sell securities.
12. Respondent has not filed federal income tax returns since 2006 or before.

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. . . (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. . . (14) Failed to pay any state income tax or comply with any administrative or court order directing the payment of state income tax.” K.S.A. 2010 Supp. 40-4909(a).
14. K.A.R. 40-7-9(c) requires that a licensed agent report to the commissioner within 30 days “each judgment or injunction entered against the licensee on the basis of fraud, deceit, or misrepresentation, or a violation of any insurance law.”
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. 2010 Supp. 40-4909(b).
16. “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

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

18. The Commissioner finds that Respondent has used fraudulent or dishonest practices and demonstrated untrustworthiness or financial irresponsibility in the conduct of business.

19. The Commissioner further finds that Respondent has failed to pay state income tax.

20. The Commissioner also finds that Respondent has failed to report civil judgments, a tax lien, and a tax warrant, and presumes those legal actions are related to Respondent’s pattern of fraud, deceit, and misrepresentation in business.

21. 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).

22. 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.

23. 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 ENTERS THE FOLLOWING ORDERS That the Kansas resident insurance agent's license of **MICHAEL J. FLORES** is hereby **REVOKED**, and **MICHAEL J. FLORES** 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 __6th__ DAY OF OCTOBER 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 6th day of October 2011 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Michael J. Flores
1546 N. Sheridan Street
Wichita, KS 67203-1753

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