

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

In the Matter of the Kansas Resident)
Insurance Agent's License of) Docket No. **4253--SO**
MELODY K. FULTON)
NPN #6121155)

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 Melody K. Fulton ("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 resident agent to transact the business of insurance in Kansas and has been so licensed since April 22, 1997.
2. KID records further indicate Respondent's legal address is 315 McDougal Street, Glendive, Montana, and her mailing address is PO Box 1002, Glendive, MT 59330-1002.
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. On or about May 3, 2010, Respondent reported a change of residential and mailing addresses from Kansas to Montana.
6. On May 3 and on July 8, 2010, the Commissioner issued clearance letters to verify Respondent's Kansas resident license and qualifications.
7. By electronic mail message dated August 4, 2010, KID staff notified Respondent that ninety (90) days had passed since she moved from Kansas to Montana and she needed to obtain a Montana resident license immediately.
8. By electronic mail message dated October 14, 2010, KID staff suggested Respondent cancel her Kansas license by November 3, 2010 in order to avoid action against her license.
9. Respondent replied that she was still looking for an agency and did not want to surrender her Kansas license before time expired.
10. By letter of November 15, 2010, counsel for KID asked Respondent to reply within fifteen (15) business days if the foregoing facts were incorrect.
11. To date, Respondent has not replied, so the facts are deemed undisputed.
12. To date, Respondent has not provided proof she has obtained a Montana resident license, nor has she cancelled her Kansas license.

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;” K.S.A. 2009 Supp. 40-4909(a).

14. “Unless denied licensure pursuant to K.S.A. 2009 Supp. 40-4909, and amendments thereto, a nonresident person shall receive a nonresident agent license if . . . such person is currently licensed as a resident and in good standing in such person’s home state.” K.S.A. 40-4906(a)(1).

15. Any insurance agent who resides in this state and who moves from this state to another state shall file with the commissioner within 30 days a change of address and provide certification from the new resident state.” K.S.A. 40-4909(c)(2).

16. 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

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, based on the facts contained in paragraphs 5 through 10, that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent has violated the provisions of K.S.A. 40-4906(c)(2).

19. More importantly, the Commissioner finds from the same facts that Respondent’s license must be cancelled or revoked because Respondent is not licensed and in good standing in her home state and thus is not entitled, pursuant to K.S.A. 40-4906(a)(1), to hold a license based on reciprocity.

20. 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) and K.S.A. 40-4906.

21. 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.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas nonresident insurance agent's license of **MELODY K. FULTON** is hereby **REVOKED**. **It is further ordered**, that **MELODY K. FULTON** shall **CEASE and DESIST** from 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 21st 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/ John W. Campbell
John W. Campbell
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:

John W. Campbell, 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

John W. Campbell, 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 ___21st___ day of December 2010, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Melody K. Fulton
PO Box 1002
Glendive, MT 59330-1002.

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