

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

In the Matter of the Kansas Resident )  
Insurance Agent's License of )  
**MARIA S. GARCIA,** ) Docket No. **4337--SO**  
NPN 6115613. )

**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 Maria S. Garcia ("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 insurance agent in the state of Kansas and has been so licensed since March 30, 2001.
2. Respondent's legal and mailing address of record is 1520 W. 21<sup>st</sup> St. N, Wichita, KS 67203-2448.
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. Effective February 3, 2011, Respondent's appointment as an agent for Farmers group of insurance companies was terminated because Respondent mishandled premiums belonging to the company.
6. A Farmers audit reflects that Respondent accepted a total of \$3579.51 in cash paid by consumers for insurance premium and failed to deposit the cash to be forwarded to the company.

7. In a signed statement dated January 18, 2011, Respondent admitted that the payments were outstanding and that she had been using the cash for business and personal expenses.

8. By letter dated June 1, 2011, and mailed to Respondent's mailing address of record, counsel for KID invited Respondent to reply if she disagreed with the foregoing statements.

9. To date, Respondent has not replied.

#### **Applicable Law**

10. 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. . . (4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business. . . . (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).

11. 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).

#### **Conclusions of Law**

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

13. The Commissioner finds that Respondent has improperly withheld, misappropriated, or converted money or property received in the course of doing insurance business.

14. The Commissioner also finds from the same facts that Respondent has used fraudulent or dishonest practices and demonstrated untrustworthiness or financial irresponsibility in the conduct of business.

15. 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).

16. 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.

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 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 ORDERS** that the Kansas resident insurance agent's license of **MARIA S. GARCIA** is hereby **REVOKED**, and **MARIA S. GARCIA** 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 \_\_1st\_\_ DAY OF \_\_July\_\_ 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. 9<sup>th</sup> 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. 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 **Summary Order** and accompanying **Notice of Rights** on this   1st   day of July 2011 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Maria S. Garcia  
1520 W. 21<sup>st</sup> St. N  
Wichita, KS 67203-2448

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