

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

In the Matter of the Kansas Resident )  
Insurance Agent's License of ) Docket No. **4250--SO**  
**GABRIEL GONZALEZ** )  
NPN #8505986 )

**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 Gabriel Gonzalez ("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 July 28, 2005.
2. KID records further indicate Respondent's legal address is 4212 West 54<sup>th</sup> Street, Roeland Park, Kansas, and his mailing address is 13200 Metcalf Ave. #190, Overland Park, KS 66213.
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. On or about September 23, 2010, KID received notice from Farmers' Insurance Group that Respondent's appointments with Farmers affiliated companies had been terminated for cause because of misappropriation of premium.
6. By letter of October 1, 2010, mailed to Respondent at his legal address of record, a KID investigator asked for an explanation.
7. To date, Respondent has not replied, and the letter has not been returned.
8. In a letter mailed to Respondent's address of record on November 9, 2010, counsel for KID asked Respondent to reply if he disputed the foregoing information.
9. To date, Respondent has not replied.
10. Additional information provided by the company following an audit indicates that Respondent embezzled \$1770 in premium payments from June through August 2010 and created 34 fictitious policies in order to receive gross sales commissions of \$16,868.36 from March 2009 through September 2010.

**Applicable Law**

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

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

(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. 40-4909(a).
12. A fraudulent insurance act is “an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer . . . any written statement as part of, or in support of, an application

for the issuance or, or the rating of an insurance policy for personal or commercial insurance . . . which such person knows to contain materially false information concerning any fact material thereto . . . .” K.S.A. 40-2,118(a).

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 5 and 10, that Respondent has improperly withheld, misappropriated, or converted money or property received in the course of doing insurance business.

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

17. The fraudulent practices violate K.S.A. 40-2,118.

18. 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. 2004 Supp. 40-4909(a).

19. 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.

20. 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 resident insurance agent's license of **GABRIEL GONZALEZ** is hereby **REVOKED**. **It is further ordered,** that **GABRIEL GONZALEZ** 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 \_\_15th\_\_ 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. 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

John W. Campbell, 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 serviced a true and correct copy of the above and foregoing **Summary Order** and accompanying **Notice of Rights** on this \_\_\_15th\_\_\_ day of \_ Dec. \_\_\_ 2010, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Gabriel Gonzalez  
13200 Metcalf Ave. #190  
Overland Park, KS 66213

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