

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of) Docket No. **4246--SO**
TRACIE McLEAN)
NPN #15066833)

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 Tracie McLean ("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 October 16, 2009.
2. KID records further indicate Respondent's legal and mailing address is 2370 S. Henderson St., Bloomington, IN 47401-4539.
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. Respondent last notified KID of a change of address on or about December 28, 2009, when she changed both her residence and her mailing address to the address shown in paragraph 2 above.
6. KID received a complaint regarding a Medicare Advantage Plan Respondent sold to a Kansas consumer in January 2009.
7. By letter mailed to her address of record on October 28, 2010, the Director of the Commissioner's Consumer Assistance Division (CAD) asked for documentation regarding the complaint and an explanation for the sale prior to issuance of a Kansas agent's license.
8. That letter was returned by the postal service as undeliverable.
9. By letter of November 18, 2010, counsel for KID wrote to Respondent at her address of record and invited Respondent to reply within 15 business days if she disputed the above.
10. That letter was also returned as undeliverable.
11. To date, Respondent has not notified KID of a change of address.

Applicable Law

12. 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. 40-4909(a).
13. K.S.A. 40-4905(a) provides that “it shall be unlawful for any person to sell, solicit or negotiate any insurance within this state unless such person has been issued a license as an insurance agent in accordance with this act.”

14. Pursuant to K.A.R. §40-7-9(f), a licensee is required to notify the Commissioner within 30 days of a change of address.

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. 40-4909(b).

Conclusions of Law

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

17. The Commissioner finds, based on the facts contained in paragraph 6, that Respondent's license may be revoked, pursuant to K.S.A. 40-4909(a)(2)(A), because Respondent has violated a provision of the chapter 40 of the Kansas Statutes Annotated by selling, soliciting, or negotiating insurance business in Kansas without a license to do so, in violation of K.S.A. 40-4905(a).

18. The Commissioner finds, based on the facts contained in paragraphs 7 through 11, 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(f), a regulation promulgated under chapter 40 of the Kansas Statutes Annotated, by failing to notify the Commissioner within 30 days of a change of address.

19. 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).

20. 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.

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 **TRACIE McLEAN** is hereby **REVOKED. It is further ordered,** that **TRACIE McLEAN** 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. 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 serviced a true and correct copy of the above and foregoing **Summary Order** and accompanying **Notice of Rights** on this ___15th___ day of December 2010, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Tracie McLean
2370 S. Henderson St.
Bloomington, IN 47401-4539

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