

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of) Docket No. **4258--SO**
JAMES E. RIVARD)
NPN #1931529)

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 James E. Rivard ("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 June 21, 2007.
2. KID records further indicate Respondent's legal and mailing address is 2705 E. FM 487, Jarrell, TX 76537.
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 Respondent was licensed in the state of Texas until that license was revoked, effective August 3, 2010, for misappropriation of premium.

6. To date, Respondent has not reported the action to KID as required by K.A.R. §40-7-9(a).

7. By letter of November 18, 2010, counsel for KID asked Respondent to reply within fifteen (15) business days if the foregoing facts were incorrect.

8. To date, Respondent has not replied, so the facts are deemed undisputed.

Applicable Law

9. 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).

10. K.A.R. §40-7-9(a) requires a licensee to report any disciplinary action against his or her license by the insurance regulatory agency of another jurisdiction to the Commissioner within thirty (30) days of the action.

11. “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).

12. 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

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

14. 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 failed to report a disciplinary action against his insurance agent's license within 30 days in violation of the provisions of K.A.R. §40-7-9(a).

15. More importantly, the Commissioner finds from the same facts and Respondent's legal address of record that Respondent's license must be cancelled or revoked because Respondent is not licensed and in good standing in his state of residence and thus is not entitled, pursuant to K.S.A. 40-4906(a)(1), to hold a license based on reciprocity.

16. Based on the Texas order, the Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(4) because Respondent has improperly withheld, misappropriated, or converted money or property received in the course of doing insurance business.

17. Also based on the Texas order, the Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has used a dishonest practice and/or demonstrated untrustworthiness in the conduct of business.

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. 40-4909(a) and K.S.A. 40-4906(a).

19. 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 **JAMES E. RIVARD** is hereby **REVOKED**. **It is further ordered**, that **JAMES E. RIVARD** 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:

James E. Rivard
2705 E. FM 487
Jarrell, TX 76537.

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