

**FINAL ORDER**

**Effective: 4-4-11**

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

<b>In the Matter of</b>	)	
<b>The Kansas Nonresident</b>	)	
<b>Insurance Agent’s License of</b>	)	<b>Docket No. 4278-CO</b>
<b>GERALD RISING JR.</b>	)	
<b>NPN#807977,</b>	)	
<b>The Kansas Nonresident</b>	)	
<b>Insurance Agency License of</b>	)	
<b>RURAL HEALTH PLANS INITIATIVE</b>	)	
<b>ADMINISTRATIVE COMPANY</b>	)	
<b>ID#460483031-000,</b>	)	
<b>The Kansas Third Party Administrator of</b>	)	
<b>RURAL HEALTH PLANS INITIATIVE</b>	)	
<b>ADMINISTRATIVE COMPANY</b>	)	
<b>NAIC#902122</b>	)	

**CONSENT AGREEMENT AND FINAL ORDER**

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-103 and in accordance with K.S.A. 40-4901 *et seq.*, the Commissioner hereby accepts the stipulations of the parties and accepts surrender of the Kansas nonresident insurance agent, agency and third party administrator license of Gerald Rising Jr. (“Rising”) and Rural Health Plans Initiative Administrative Company (“RHPI”). This Consent Agreement shall become effective as a Final Order, without further notice, when signed by the Commissioner or her designee and filed of record with the Kansas Insurance Department (“KID”).

This Consent Agreement shall become effective as a Final Order, without further notice when signed by the Commissioner or her designee and filed of record with KID.

**Findings of Fact**

1. Records maintained by KID reflect that Rising is licensed as a nonresident Kansas insurance agent and has been so licensed since June 21, 2004 with NPN# 807977.

2. Records maintained by KID reflect that RHPI is a nonresident insurance agency and has so been licensed since June 21, 2004 with ID # 46048303. Rising is the listed as the contact person.

3. Records maintained by KID reflect that RHPI is admitted in Kansas as a third party administrator and has so been licensed since June 21, 2004 with NAIC # 902122. Rising is listed as the contact person. As a third party administrator, RHPI was required to maintain, and did maintain as noted in this paragraph, a certificate of registration as an administrator issued by the Commissioner of Insurance, thereby subjecting it to Kansas state insurance statutes and regulations.

4. KID records further reflect that Respondents' mailing address is 9000 E. Nichols Ave., Suite 125, Centennial, Colorado 80112.

5. It is stipulated that KID received eleven complaints against the Respondents in which the complainants consistently state that the Respondents had provided the consumer with insurance benefits and had failed to pay claims.

6. It is stipulated that Rising stated to KID with regard to three of the complaints that payment of claims were in the process of being paid but some claims were over one year old.

7. It is stipulated that RHPI filed for Chapter 7 bankruptcy relief in United States Bankruptcy Court, District of Colorado on or about November 23, 2010.

8. Respondent has tendered voluntary surrender of his Kansas nonresident insurance agent's license.

9. Respondent stipulates that he understands his right to have a hearing on the facts and disposition and to seek review of an adverse order in this matter.

10. Respondent expressly waives hearing and stipulates to the foregoing facts.

11. Respondent further waives administrative and judicial review.

**Applicable Law**

12. K.S.A. 40-2404 states, in pertinent part:

(9) *Unfair claim settlement practices.* It is an unfair claim settlement practice if any of the following or any rules and regulations pertaining thereto are: (A) Committed flagrantly and in conscious disregard of such provisions, or (B) committed with such frequency as to indicate a general business practice.

(a) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(b) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

13. K.S.A. 40-2442 states, in pertinent part:

(a) Within 30 days after receipt of any claim, and amendments thereto, any insurer issuing a policy of accident and sickness insurance shall pay a clean claim for reimbursement in accordance with this section...

(b) If any insurer issuing a policy of accident and sickness insurance fails to comply with subsection (a), such insurer shall pay interest at the rate of 1% per month on the amount of the claim that remains unpaid 30 days after the receipt of the claim...

14. K.S.A. 40-4909 states, in pertinent part:

(a) 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 . . .

(7) Admitted to or been found to have committed any insurance unfair trade practice or fraud in violation of K.S.A. 40-2404 and amendments thereto.

(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. . . .

(e) None of the following actions shall deprive the commissioner of any jurisdiction or right to institute or proceed with any disciplinary proceeding against such license, to render a decision suspending, revoking or refusing to renew such license, or to establish and make a record of the facts of any violation of law for any lawful purpose:

(4) the licensee's voluntary surrender of any license issued under this act. No such disciplinary proceeding shall be instituted against any licensee after the expiration of two years from the termination of the license.

15. K.S.A. 40-3810 states, in pertinent part:

“No person shall act as or hold oneself out to be an administrator in this state, unless such person holds a certificate of registration as an administrator issued by the commissioner of insurance...Such certificate shall be issued or continued by the commissioner to an administrator unless the commissioner after due notice and hearing shall have determined that the administrator is not competent, trustworthy, financially responsible or of good personal and business reputation, or has had a previous application for an insurance license denied for cause within five years.”

### **Conclusions of Law**

16. Pursuant to K.S.A. 40-4909(e), voluntary surrender of a license does not deprive the Commissioner of jurisdiction to institute or proceed with disciplinary action to render a decision or make a record of the facts.

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. In consideration of the above stated stipulations, the Commissioner accepts the voluntary surrender of the Kansas nonresident agent license of Rising, the Kansas nonresident agency license of RHPI and the Kansas third party administrator license of RHPI.

19. The Commissioner further concludes that the public interest is adequately served by accepting surrender of Respondent’s Kansas nonresident insurance agent license in lieu of further fact-finding.

### **Stipulation**

The undersigned stipulates and agrees to the above findings fact and conclusions of law and waives his rights to administrative hearing and judicial review of the Commissioner’s Order.

/S/ Gerald Rising, Jr.      3/31/11  
Gerald Rising Jr.                      Date  
Respondent

Prepared by:

/S/ Jennifer R. Sourk  
Jennifer R. Sourk  
Staff Attorney

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE that the Kansas nonresident insurance agent's license of Gerald Rising Jr., the Kansas nonresident insurance agency license of Rural Health Plans Initiative Administrative Company and the third party administrator license of Rural Health Plans Imitative Administrative Company is REVOKED by surrender, and Gerald Rising Jr. and/or Rural Health Plan Initiative Administrative Company shall not be employed by any insurance company, shall not sell, solicit, or negotiate contracts of insurance, and shall not perform any act toward the solicitation of or transaction of any business of insurance within the state of Kansas from and after the effective date of this order. The Commissioner shall retain jurisdiction over this matter to issue any order deemed necessary and appropriate.**

**IT IS SO ORDERED THIS 4 DAY OF APRIL 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:** In the event Respondent files a petition for judicial review, it must be filed within 30 days of service of this order, and 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. 9th Street  
Topeka, Kansas 66612

**Certificate of Service**

The undersigned hereby certifies that a fully executed and filed copy of the above and foregoing Consent Agreement and Final Order was placed in the United States mail, first-class postage prepaid, on this 4th day of April, 2011, addressed to the following:

Gregory Goldberg  
Holland & Hart  
555 Seventh St.  
Suite 3200  
Denver, CO 80202-3979

/S/ Jennifer R. Sourk  
Jennifer R. Sourk  
Staff Attorney