

**FINAL ORDER**

**Effective: 1-9-12**

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

In the Matter of the Kansas Resident )  
Insurance Agent’s License of ) Docket No. **4391-SO**  
**DAVID UBBEN** )  
NPN #6104321 )

**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 resident insurance agent’s license of David A. Ubben (“Respondent”), by way of Summary Order as provided by K.S.A. 77-537. This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period for requesting a hearing if no hearing is requested.

**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 August 22, 1969.
2. KID records further indicate Respondent’s legal and mailing address is 3130 Sedgwick, Wichita, KS 67204.
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. Western & Southern Life Insurance Company (“Western & Southern”) terminated Respondent’s agent appointment for cause, effective November 9, 2011, following an audit that indicated Respondent submitted four applications for bogus business.
6. Previously, from March 4, 2010, through November 4, 2010, Western & Southern Life had placed Respondent on probation for submitting business with invalid social

security numbers, addresses, and telephone numbers in violation of field underwriting procedures.

7. By letter dated November 22, 2011, addressed to Respondent at his mailing address of record, counsel for KID summarized the foregoing information and invited Respondent to reply in writing within 15 business days if he disputed the facts.
8. To date, Respondent has not replied, and the letter has not been returned.
9. Thus, the facts are deemed undisputed.

### **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: . . .

(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’s agent license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has used a fraudulent, coercive, or dishonest practice in the conduct of business in submitting applications for insurance policies that contained materially false information..
14. 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).

15. The Commissioner further concludes Respondent's license should 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.

16. 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.

17. 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. K.S.A. 40-4909(b). Thus, the Commissioner is charged with safeguarding the security and integrity of the insurance business and protecting 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 following action is both necessary and sufficient to serve that purpose.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas resident insurance agent's license of DAVID A. UBBEN is hereby REVOKED.**

**It is further ordered,** that **DAVID A. UBBEN** shall **CEASE and DESIST** from the sale, solicitation, or negotiation of insurance, directly or indirectly doing any act toward 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 revocation.

IT IS SO ORDERED THIS \_\_\_21st\_\_\_ DAY OF DECEMBER 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 \_\_\_21st\_\_\_ day of December 2011, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

David A. Ubben  
3130 Sedgwick  
Wichita, KS 67204

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