

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

In the Matter of the Kansas Resident	)	
Insurance Agent’s License of	)	Docket No. <b>4315--SO</b>
<b>MELVIN VILLATORO</b>	)	
NPN #10200416	)	
And	)	
The Kansas Resident	)	
Insurance Agency License of	)	Docket No. 4316-SO
<b>Villatoro Insurance Agency,</b>	)	
A Sole Proprietorship,	)	

**PROPOSED DEFAULT ORDER**  
(Pursuant to K.S.A. 40-4909 and K.S.A. 77-520)

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 licenses of MELVIN VILLATORO (“Respondent”) and the agency license of Villatoro Insurance Agency, Inc. (“Respondent Agency”) by Default Order as provided by K.S.A. 77-520.

**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 20, 2008.
2. KID records further indicate Respondent’s legal and mailing address is 14407 W. Sheriac Circle, Wichita, KS 67235-8085.
3. Respondent Agency is a sole proprietorship and has held a Kansas resident insurance agency license since July 1, 2010.
4. The Agency’s address of record is 5231 E. Central, Suite C, Wichita, KS 67235.
5. Respondent is the Kansas licensed agent designated as the agency contact and the agent responsible for the agency’s compliance with the insurance laws and regulations of the state of Kansas.
6. Following investigation, KID served a Summary Order pursuant to K.S.A. 77-537 to Respondents at their address of record, and Respondents received the Summary

Order and timely requested a hearing as provided by K.S.A. 77-537 and the Summary Order.

7. Respondents were served with a Notice of Hearing setting a prehearing conference for Tuesday, August 23, 2011, at 10:00 a.m. The notice further provided that Respondent could make prior arrangements to appear by telephone.

8. Respondents do not appear, either in person or by telephone, for the prehearing conference.

9. The Presiding Officer is the Assistant Commissioner of Insurance acting on behalf of the Commissioner of Insurance as the agency head as provided in K.S.A. 77-547.

### **Applicable Law**

10. If a party fails to participate in a prehearing conference, the presiding officer may serve upon all parties written notice of a proposed default order. K.S.A. 77-520(a). "Within seven (7) days after service of a proposed default order, the party against whom it was issued may file a written motion requesting that the proposed default order be vacated and stating the grounds relied upon." K.S.A. 77-520(b). When the proposed default order is served by mail, three days are added to the time. K.S.A. 77-531. Unless a written motion is filed within the time allowed, the proposed default order will become effective at the expiration of the time allowed. K.S.A. 77-520(c). The proposed default order is effective upon service if not vacated. K.S.A. 77-520(d).

11. Pursuant to K.S.A. 77-526(a), the Presiding Officer, the Assistant Commissioner of Insurance acting on behalf of the Commissioner of Insurance as the agency head as provided in K.S.A. 77-547, is empowered to render a Final Order.

### **Conclusions of Law**

12. Respondents have been properly served notice of the allegations and proposed action and notice of the Prehearing Conference.

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

14. The Commissioner finds that Respondents have failed to appear for the prehearing conference and a proposed default order may and should be served.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT** Respondents' request for hearing is DISMISSED, and the findings of fact and conclusions of law of the Summary Order served upon Respondents on the 28<sup>th</sup> day of June 2011 are adopted as follows:

**Findings of Fact**

15. By letter dated February 17, 2011, Farmers Insurance Group notified KID that Respondent's appointments with Farmers affiliated companies had been cancelled for cause.

16. The notice included the information that Respondent's individual appointments were terminated because Respondent mishandled premium funds belonging to the company.

17. By letter dated May 6, 2011, and mailed to Respondents at their addresses of record, counsel for KID summarized the foregoing facts and invited Respondents to reply within 15 days if they disagreed with the statement of facts.

18. To date, the letters have not been returned, and Respondents have not replied. Thus, the facts are deemed undisputed.

**Applicable Law**

19. K.S.A. 2010 Supp. 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:

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

(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).

20. "The license of any business entity may be suspended, revoked or refused renewal if the insurance commissioner finds that any violation committed by an individual licensee employed by or acting on behalf of such business entity was known by or should have been known by one or more

of the partners, officers or managers acting on behalf of the business entity and:

- (1) Such violation was not reported to the insurance commissioner by such business entity; or
- (2) such business entity failed to take any corrective action.” K.S.A. 2010 Supp. 40-4909(d).

21. 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**

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

23. The Commissioner finds, based on the undisputed facts contained in paragraphs 15 and 16, that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(4) because Respondent has improperly withheld, misappropriated, or converted premium funds belonging to Farmers.

24. In addition or in the alternative, the Commissioner finds, based on the same undisputed facts, that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has used a dishonest practice or demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business.

25. 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).

26. 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.

27. Because Respondent is also the agent responsible for Respondent Agency’s compliance and Respondent knew of but did not report his misconduct to KID and take corrective action, Respondent Agency’s license may be revoked for the same reasons.

**Policy to be Served**

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. The following action is appropriate to promote the security and integrity of the insurance business and protect 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.

**IT IS THEREFORE ORDERED** that (1) the Kansas nonresident insurance agent's license of **MELVIN VILLATORO** and the Kansas resident agency license of the **VILLATORO INSURANCE AGENCY** are hereby **REVOKED**; and (2) **MELVIN VILLATORO** and the **VILLATORO INSURANCE AGENCY** shall **CEASE and DESIST** from the sale, solicitation, or negotiation of insurance, receiving compensation deriving from the sale, solicitation, or negotiation of insurance conducted on and after the effective date of this order, and/or doing any act toward the sale, solicitation, or negotiation of insurance in Kansas from and after the effective date of this order.

**Unless vacated by further order, this Proposed Default Order shall become effective as a Final Order at the expiration of the time for filing a motion to vacate the order.**

**IT IS SO ORDERED THIS \_\_23rd\_\_ DAY OF AUGUST 2011, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**

\_\_\_\_\_/s/ Robert Tomlinson\_\_\_\_\_  
Robert Tomlinson  
Assistant Commissioner of Insurance



**NOTICE**

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 he/she served a true and correct copy of the above and foregoing **Proposed Default Order** on this \_\_\_23rd\_\_\_ day of August 2011, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Melvin Villatoro  
14407 W. Sheriac Circle  
Wichita, KS 67235-8085

And to

Villatoro Insurance Agency  
5231 E. Central, Suite C  
Wichita, KS 67235

\_/s/ Jana L. Beethe \_\_\_\_\_  
Jana L. Beethe  
Legal Assistant