

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of)
WINSLOW BALLENGER WHEELER) Docket No. **4271--SO**
NPN #10300198)

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 nonresident insurance agent's license of WINSLOW BALLENGER WHEELER ("Respondent") by Default Order as provided by K.S.A. 77-520.

Findings of Fact

1. On January 31, 2011, the Kansas Insurance Department ("KID") served Respondent by mail with a Summary Order revoking Respondent's license.
2. Respondent timely requested a hearing on the proposed order, and the matter was set for prehearing conference on March 15, 2011.
3. Prior to the prehearing conference, Respondent withdrew his request for a hearing and surrendered his license as a result of action by the insurance regulatory agency of Florida.
4. 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

5. 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).

6. 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

7. Respondent has been properly served notice of the allegations and proposed action and notice of the Prehearing Conference.

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

9. The Commissioner finds that Respondent has elected not to participate in the scheduled prehearing conference or further proceedings and a proposed default order may and should be served.

10. The Presiding Officer is empowered to render a final order.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Summary Order served upon Respondent on the 31st day of January 2011 is attached hereto and adopted as a FINAL ORDER effective on the 11th day of March 2011, the effective date of Respondent's surrender of his Kansas nonresident insurance agent's license.

IT IS SO ORDERED THIS 24th DAY OF MARCH 2011, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



 /s/ Robert Tomlinson _____
Robert M. Tomlinson
Assistant Commissioner of Insurance
Acting as Agency Head
On behalf of the Commissioner
Pursuant to K.S.A. 77-547

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. 9th 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 24th day of March 2010, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Winslow Ballenger Wheeler
404 Ivy Ct.
Saint Johns, FL 32259

 /s/ Jana L. Beethe _____
Jana L. Beethe
Legal Assistant

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing **Final Default Order** was served by placing the same in the United States Mail, first class, postage prepaid, on this 5th day of April , 2011, addressed to the following:

Winslow Ballenger Wheeler
404 Ivy Ct.
Saint Johns, FL 32259

And by hand delivery to:

Brenda J. Clary
Staff Attorney
Kansas Insurance Department
420 SW 9th Street
Topeka, Kansas 66612

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

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of) Docket No. **4271--SO**
WINSLOW BALLENGER WHEELER)
NPN #10300198)

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 Winslow Ballenger Wheeler ("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 25, 2008.
2. KID records further indicate Respondent's legal address is 404 Ivy Court, Saint Johns, Florida, and his mailing address is Selectquote Insurance Services, 595 Market St., 10th Floor, San Francisco, CA 94105.
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. On April 21, 2010, in Case Number 3:09-cr-310-J-34JRK, in the United States District Court for the Middle District of the State of Florida, Jacksonville Division, Respondent entered a plea of guilty to mail fraud, a felony in violation of 18 U.S.C. 1341 and 1342, pursuant to a plea agreement.
6. Respondent was indicted for his participation, while employed as a mortgage broker, in a scheme to defraud lenders.
7. On November 8, 2010, Respondent was sentenced to three years of probation, including 180 days of home detention.
8. As a term of his probation, Respondent is barred from employment related to the buying and selling of real estate.
9. Respondent was previously licensed as a nonresident insurance agent in the state of California, and that license was summarily revoked effective August 2, 2010, based on his conviction of a felony.
10. Subsequently, Respondent's insurance producer license was revoked in Vermont.
11. Respondent self-reported the conviction and both licensing actions.
12. Respondent has requested that KID defer action until his home state of Florida has acted on his application for consent, pursuant to 18 U.S.C. §1033, for consent to engage in the business of insurance, and counsel for KID had regular electronic mail ("email") communication with Respondent from October 2010 through December 2010.
13. On January 14, 2011, by email, counsel whether Florida insurance regulators had made a decision about Respondent's status.
14. To date, Respondent has not replied.

Applicable Law

15. 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. . .

(6) Been convicted of a misdemeanor or felony.

(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.

(9) Had an insurance agent license, or its equivalent, denied, suspended or revoked in any other state, district or territory.” K.S.A. 40-4909(a).

16. 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

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. The Commissioner finds, based on the facts contained in paragraph 5, that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(6) because Respondent has been convicted of a felony.

19. The Commissioner finds, based on the elements of the offense and factual basis for Respondent’s plea, that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has used a fraudulent or dishonest practice as a mortgage broker.

20. In addition, the Commissioner finds, based on the facts contained in paragraph 9 and 10, that Respondent's license may be revoked, pursuant to K.S.A. 40-4909(a)(9) because Respondent has had insurance agent's licenses revoked in other states.

21. 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).

22. 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.

23. 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 **WINSLOW BALLENGER WHEELER** is hereby **REVOKED**. **It is further ordered**, that **WINSLOW BALLENGER WHEELER** 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 31st DAY OF JANUARY 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. 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

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 she served a true and correct copy of the above and foregoing **Summary Order** and accompanying **Notice of Rights** on this __31st__ day of January 2011, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Winslow Ballenger Wheeler
c/o Selectquote Insurance Services
595 Market St., 10th Floor
San Francisco, CA 94105

With an additional copy addressed to

Winslow Ballenger Wheeler
404 Ivy Court
Saint Johns, FL 32259

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