

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of) Docket No. **4157 --SO**
PAULA J. WHITENIGHT)
NPN #1955341)

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 Paula J. Whitenight ("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 nonresident agent to transact the business of insurance in Kansas and has been so licensed since August 23, 2004.
2. Respondent was licensed to sell excess lines from September 20, 2004 until the license lapsed on April 30, 2009.
3. KID records further indicate Respondent's legal and mailing address is 9202 W. 141 St., Savage, MN 55378-2274. However, returned mail indicates that Respondent may be found and served at 4051 E. Lupine Ave., Phoenix, AZ 85028-2246.

4. 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.

5. Following investigation, the Commissioner finds evidence sufficient to support the following findings of fact:

6. On June 22, 2010, KID staff served Respondent with a Summary Order assessing a monetary penalty of one hundred dollars (\$100) for Respondent's failure to file an annual statement pertaining to sales of excess lines insurance as required by K.S.A. 40-246c.

7. The Summary Order gave notice of Respondent's right to request a hearing, the time allowed for doing so, and the person to be served with the request.

8. The Summary Order also gave notice that if Respondent did not request a hearing within the time allowed, the order would become a final order.

9. Respondent did not request a hearing, and the Summary Order was filed as a final order on July 12, 2010.

10. When Respondent had not paid the penalty, KID staff wrote to Respondent on October 6, 2010, at her address of record, reminding her of the obligation and giving notice that action could be taken against her agent's license if the penalty remained unpaid.

11. The letter was returned marked "forward time exp," and KID staff mailed another letter to the forwarding address shown on the postal label.

12. To date, Respondent has not paid the penalty, filed an excess lines statement for 2009, or notified KID of a change of address.

Applicable Law

13. “Each licensed [excess lines] agent shall file with the commissioner on or before March 1 of each year a statement on a form prescribed by the commissioner, accounting for the gross premiums upon all policies written on risks situated in this state up to January 1 in each year for the year next preceding and the licensee shall transmit to the commissioner, with such affidavit or statement, a sum equal to 6% of the gross premiums upon all policies procured by such agent on risks situated in this state written under the provisions of this act.” K.S.A. 40-246c.
14. 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: . . . (2) Violated: (A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder; [or] (B) any subpoena or order of the commissioner;” K.S.A. 40-4909(a).
15. 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).
16. Lapse of a license does not deprive the Commissioner of jurisdiction to institute or proceed with a disciplinary proceeding against the license. K.S.A. 40-4909(e).

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 that Respondent’s agent license may be revoked pursuant to K.S.A. 40-4909(a)(2)(B) because Respondent has violated an order of the Commissioner.

19. The Commissioner finds that Respondent's agent license may be revoked pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent has violated K.S.A. 40-246c by failing to file the required statements for 2009 and 2010 by the deadlines, and those violations have continued to date.

20. Further, the Commissioner concludes, because of Respondent's failure to pay the penalty or file the reports after the October 6, 2010, letter, that the violations were knowing and intentional.

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 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.

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 resident insurance agent's license of **PAULA J. WHITENIGHT** is hereby **REVOKED**. **It is further ordered,** that **PAULA J. WHITENIGHT** 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 __6th__ 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 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 ___6th___ day of April 2011, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Paula J. Whitenight
4051 E. Lupine Ave.
Phoenix, AZ 85028-2246

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