

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

In the Matter of the Kansas Resident )  
Insurance Agent's License of )  
**JOHN R. AKERS,** ) Docket No. **4468--SO**  
NPN 3390433. )

**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 John R. Akers ("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, formerly a resident of Illinois, was licensed as a nonresident insurance agent in the state of Kansas on March 30, 2010, and after notifying KID of a new legal address in Kansas was issued a Kansas resident agent's license on July 8, 2010.
2. Respondent's legal and mailing address of record is 6901 W. 138<sup>th</sup> Terrace, Apartment 418, Overland Park, KS 66223-7830.
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 Respondent.
4. Following investigation, the Commissioner finds evidence sufficient to support the following facts:
5. By Consent Order filed October 9, 2009, in Cause No. A-1848, the Department of Insurance for the State of Nebraska ordered Respondent to pay an administrative penalty within 30 days for failure to notify the department of three changes of his business address.

6. By Order filed November 23, 2009, in the same matter, Respondent's Nebraska license was revoked for failure to pay the penalty.

7. On March 30, 2010, while licensed in Illinois, Respondent submitted his application for a Kansas nonresident insurance agent license.

8. Background Question 2 of the application asks, "Have you ever been named or involved as a party in an administrative proceeding including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?"

9. Respondent answered "No."

10. By letter dated July 11, 2012, and addressed to Respondent at his address of record, counsel for KID invited Respondent to reply in writing by mail or email if he disputed the foregoing facts.

11. On July 16, 2012, the letter was returned by the United States Postal Service marked "not deliverable" and "unable to forward."

12. Respondent had not since reported a change of address as required by K.A.R. §40-7-9(f).

#### **Applicable Law**

13. 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 . . .

(1) Provided incorrect, misleading, incomplete or untrue information in the license application.

(2) Violated: (A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder; . . . .

(3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud. . . .

(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. 2011 Supp. 40-4909(a).

14. K.A.R. §40-7-9 requires a licensee to report changes of address to the Commissioner within 30 days of the occurrence. K.A.R. §40-7-9(f).

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. 2010 Supp. 40-4909(b).

16. Any action taken under the Uniform Insurance Agents Licensing Act, K.S.A. 40-4909 *et seq.*, may be taken only after notice and opportunity for hearing in accordance with the Kansas administrative procedures act, K.S.A. 77-501 *et seq.* K.S.A. 40-4909(c).

17. Service shall be made by delivering a copy of the order or notice to the person's last known address, and service by mail is complete upon mailing. K.S.A. 77-531.

### **Conclusions of Law**

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

19. The Commissioner finds that service is proper if a copy of this order is mailed to Respondent's last known address, and Respondent's ongoing failure to update his address in KID's records, even after having been disciplined for the same in Nebraska, constitutes a knowing and intentional waiver of his right to actual notice of proceedings involving his license.

20. The Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(1) because Respondent provided incorrect, misleading, incomplete or untrue information in his license application.

21. Based on the same facts, the Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(3) because Respondent obtained his Kansas license through misrepresentation regarding his licensing record.

22. The Commissioner further finds that Respondent's license may be revoked, pursuant to K.S.A. 40-4909(a)(9), solely because Respondent has had an insurance agent license revoked in another state.

23. The Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has a lack of trustworthiness.

24. The Commissioner also finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent violated K.A.R. §40-7-9 by failing to notify the Commissioner of a change of address within 30 days.

25. Based on the foregoing findings, the Commissioner concludes that sufficient grounds exist for the revocation of Respondent's insurance agent license pursuant to K.S.A. 2010 Supp. 40-4909(a).

26. Further, the Commissioner finds that Respondent's license should be revoked pursuant to K.S.A. 40-4909(b) because it is not serving the interests of the insurer or the insurable interests of the public.

27. 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.

#### **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.

**THE COMMISSIONER OF INSURANCE THEREFORE ORDERS** that the Kansas resident insurance agent's license of **JOHN R. AKERS** is hereby **REVOKED**, and **JOHN R. AKERS** 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, or performing any act toward the solicitation of or transaction of any business of insurance from and after the effective date of this order.

**It is further ordered**, pursuant to KSA 77-415(b)(2)(A), that this order is designated by KID as precedent.

**IT IS SO ORDERED THIS \_\_3rd\_\_ DAY OF AUGUST 2012, 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 \_\_3rd\_\_ day of August 2012 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

John R. Akers  
6901 W. 138<sup>th</sup> Ter., Apt 418  
Overland Park, KS 66223-7830

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