

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

In the Matter of the Kansas Nonresident)
Insurance Agent’s License of) Docket No. **4511--SO**
RICHARD L. ATKINSON,)
NPN 8767785.)

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 Richard L. Atkinson (“Respondent”) by way of Summary Order, as provided by K.S.A. 77-537, which shall take effect without further notice at the end of the time allowed 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 Kansas nonresident insurance agent and has been so licensed since May 1, 2012.
2. KID records further indicate Respondent’s legal and mailing address is 1027 Sham Pointe Drive, Lawrenceville, GA 30043.
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. Respondent applied for a Kansas nonresident insurance agent license on April 30, 2012.
6. Question 1 under Item 37 of the application asks, “Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?”
7. Respondent answered “No.”

8. At the time of Respondent's application, Respondent had been arrested and charged with a crime.
9. Question 2 under Item 37 of the application asks, "Have you ever been named or involved as a party in an administrative proceeding . . . regarding any professional or occupational license or registration?"
10. Respondent answered "No."
11. Effective April 23, 2012, the insurance commissioner for the state of Georgia assessed a monetary penalty against Respondent.
12. By letter dated September 24, 2012, and addressed to Respondent at his mailing address of record, counsel for KID invited Respondent to reply in writing within 15 business days if he disputed any of the foregoing facts.
13. To date, Respondent has not replied, and the letter has not been returned; thus, the facts are deemed undisputed.

Applicable Law

14. K.S.A. 2011 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) Provided incorrect, misleading, incomplete or untrue information in the license application. . . .
 - (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." K.S.A. 2010 Supp. 40-4909(a).
15. "In addition, the commissioner may suspend, revoke or refuse renewal of any license issued under this 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. 2011 Supp. 40-4909(b).

Conclusions of Law

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

17. The Commissioner finds that Respondent's license may be revoked or suspended pursuant to K.S.A. 40-4909(a)(1) because Respondent falsely stated on his application that he had never been convicted of a crime or had a judgment withheld or deferred and was not currently charged with a crime.

18. Consequently, the Commissioner also finds that Respondent's license may be revoked or suspended pursuant to K.S.A. 40-4909(a)(3) because Respondent obtained his license through misrepresentation or fraud.

19. 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).

20. In addition, the Commissioner concludes that Respondent's insurance agent's license may 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.

21. 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

22. 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. 49-4909(b). The following action is necessary and 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 BY THE COMMISSIONER OF INSURANCE THAT the Kansas nonresident insurance agent's license of **RICHARD L. ATKINSON** is hereby **REVOKED**, and on and after the effective date of this order, **RICHARD L. ATKINSON** shall not engage in the sale, solicitation, or negotiation of insurance, do any act toward the sale, solicitation, or negotiation of insurance, and/or receive compensation deriving from the sale, solicitation, or negotiation of insurance conducted on and after the effective date of this order in Kansas or with respect to Kansas risks.

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

IT IS SO ORDERED THIS __17th_ DAY OF OCTOBER 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. 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 17th day of October 2012, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Richard L. Atkinson
1027 Sham Pointe Drive
Lawrenceville, GA 30043

_/_s/ Brenda J. Clary _____
Brenda J. Clary
Staff Attorney