

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

In the Matter of the Kansas Resident)	
Insurance Agent’s License of)	
REBECCA S. HAGER)	Docket No. 4296--SO
NPN # 6112423)	
And the Kansas Resident)	
Insurance Agency License of)	
HINSHAW INSURANCE AGENCY)	Docket No. 4297--SO
Lic. #480843223-000)	

FINAL ORDER

On the 28th day of February 2012, this matter comes before the Presiding Officer Robert M. Tomlinson on a hearing of the Motion for Summary Disposition by the Kansas Insurance Department (“Department”), by and through counsel, Brenda J. Clary, staff attorney.

Respondent Rebecca S. Hager (“Respondent”) appears in person and on behalf of Respondent Hinshaw Insurance Agency (“Respondent Agency”). Both parties having had the opportunity to present evidence, offer objections, and give argument, the Presiding Officer makes the following findings:

FINDINGS OF FACT

1. The Department served a Summary Order in the above-captioned matter by first class mail to Respondent and Respondent Agency at their respective addresses of record.
2. The Summary Order proposed to revoke the respective licenses of Respondent and Respondent Agency for violation of K.S.A. 40-4909(a) based on the Findings of Fact set forth in the Summary Order, and to serve the public interest.
3. The mail addressed to Respondent Agency was returned, but Respondent, who is the responsible agent for Respondent Agency, received the Summary Order and requested a hearing.

4. Respondent falsely stated in her request for hearing that counsel for the Department had told her she had 20 days from service of the Summary Order in which to request a hearing. Email communication between Respondent and counsel for the Department show this assertion to be false.
5. Both Respondent and Respondent Agency were given notice of a Prehearing Conference.
6. Respondent dated her Prehearing Questionnaire June 17, 2011, and stated in the certificate of service that it was served on counsel for the Department on the same date. The document was in fact transmitted by facsimile on June 24, 2011, at 7:50 p.m. to the Presiding Officer.
7. Prehearing conference was held on June 27, 2011, at which the Respondents appeared *pro se* by telephone.
8. The Presiding Officer set the matter for evidentiary hearing on August 16, 2011.
9. Respondent failed to claim discovery sent by certified mail to P.O. Box 183, Arlington, KS 67514, which is the address Respondent requested the Department use for all communications. The mailing was returned on July 18, 2011.
10. Respondent subsequently retained counsel, Ethan S. Kaplan, of Hutchinson, Kansas. Mr. Kaplan entered an appearance on July 29, 2011, and communicated with counsel for the Department.
11. On August 15, 2011, Mr. Kaplan filed a motion to continue the hearing, citing Respondent's family emergency.
12. Per a telephone conference, Respondent agreed to a voluntary suspension of her license, and the Presiding Officer granted an indefinite continuance of the matter.

13. Respondent Agency remained licensed, and the Department arranged with a licensed agent to provide service to clients of Respondent Agency during the Respondent's suspension.
14. On February 3, 2012, the Department filed a Motion for Summary Disposition or Hearing on the Pending Matter. In the Motion, the Department asserts Respondent's conduct during the hearing process constitutes sufficient grounds for revocation of Respondent's license and Respondent Agency's license, pursuant to K.S.A. 2010 Supp. 40-4909(a)(2)(B) and (a)(8).
15. To that date, the Respondent had not requested a hearing, and Respondent's counsel had ceased to respond to communication from counsel for the Department.
16. Respondent had also directly engaged in the business of insurance since the suspension of Respondent's license.
17. Respondent's counsel filed a Motion to Withdraw as counsel on February 6, 2012, which the Presiding Officer subsequently granted.
18. The Presiding Officer issued an Order on February 3, 2012, which set the Department's Motion for Summary Disposition for hearing on February 28, 2012. The Presiding Officer ordered Respondent to file any reply to the Department's Motion for Summary Disposition no later than the close of business on February 17, 2012.
19. Respondents failed to file any reply to the Department's Motion.
20. Despite Respondent's failure to reply, the Presiding Officer conducted a hearing on the Department's Motion, during which Respondents had the opportunity to present evidence, challenge the Department's evidence, and present legal arguments.

CONCLUSIONS OF LAW

The Department asserts grounds exist to revoke Respondent's Resident Agent License and Respondent Agency's Resident Agency License pursuant to K.S.A. 2010 Supp. 40-4909(a)(2)(B) and (8).

K.S.A. 2010 Supp. 40-4909(a)(2)(B) provides, "(t)he 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....(v)iolated....any subpoena or order of the commissioner."

K.S.A. 2010 Supp. 40-4909(a)(8) provides:

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....(u)sed any fraudulent, coercive, or dishonest practice, or demonstrated any incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

The foregoing Findings of Fact show Respondent refused to cooperate with discovery, made misrepresentations in communicating with the Department, and violated the Commissioner's order to suspend Respondent's license.

Based on these findings, the Presiding Officer concludes that sufficient grounds exist for the revocation of the Respondent's Resident Agent's License and Respondent Agency's Resident Agency License, pursuant to K.S.A. 4909(a)(2)(B) and (8). The Department's Motion for Summary Disposition is granted.

POLICY REASONS

Before issuing an insurance agent license, the Commissioner must determine 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 to protect insurance consumers.

IT IS THEREFORE ORDERED:

1. The Motion for Summary Disposition of the Kansas Insurance Department is granted.
2. The Kansas Resident insurance agent's license of Rebecca S. Hager is hereby revoked.
3. The Kansas resident agency license of Hinshaw Insurance Agency is hereby revoked; and
4. Rebecca S. Hager and the Hinshaw Insurance Agency 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 __13th__ DAY OF MARCH, 2012, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/ Robert M. Tomlinson
Robert M. Tomlinson
Presiding Officer
Assistant Commissioner of Insurance

Notice of Right to Judicial Review

You have the right to judicial review in accordance with the provisions set forth in the Act for Judicial Review and Civil Enforcement of Agency Actions (K.S.A. 77-601, et seq., as amended). In the event that you file 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 SW 9th Street
Topeka, Kansas 66612-1678.

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing **ORDER** was served via the United States Postal Service, first-class postage prepaid, on this __13th_ day of March, 2012, addressed to the following:

Rebecca S. Hager
And Hinshaw Insurance Agency
PO Box 183
Arlington, KS 67514

And hand delivered a copy to:

Brenda J. Clary
Staff Attorney
Kansas Insurance Company
420 S.W. 9th Street
Topeka, Kansas 66612
Counsel for KID

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