

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

In the Matter of the Kansas Nonresident)	
Insurance Agent’s License of)	Docket No. 4496--SO
KERRY D. KISSLINGER,)	
NPN 1513042,)	
And the Kansas Nonresident)	
Insurance Agency License of)	Docket No. 4497-SO
Missouri Public Entity Benefits,)	
Lic. # 205574822-000.)	

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 Kerry D. Kisslinger (“Respondent”) and the nonresident insurance agency license of Missouri Public Entity Benefits (“Respondent Agency”) 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 December 2, 2004.
2. Respondent’s legal and mailing address of record is 4106 Windy Woods Court, Kingwood, TX 77345-1287.
3. Respondent agency was licensed as a Kansas nonresident agency on November 14, 2008, and Respondent is identified in KID records as the agency contact and Kansas licensed agent responsible for the agency’s compliance with the insurance laws and regulations of Kansas.
4. KID believes in good faith that Respondent Agency is no longer in business at its address of record but may be served through Respondent.

5. 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.
6. Following investigation, the Commissioner finds evidence sufficient to support the following findings of fact:
7. By Consent Order dated December 20, 2011, the Missouri Department of Insurance, Financial Institutions and Professional Registration revoked the business entity license and third party administrator license of Respondent Agency.
8. The Missouri Consent Order includes findings of a pattern and practice within the agency of “scrubbing” applications (i.e., adding, deleting, or altering information), forging signatures, and submitting falsified applications to the insurer.
9. The Missouri Consent Order identifies Respondent as secretary of the entity and Ashley Kisslinger as the president.
10. The Missouri Consent Order also indicates that the agency now identifies Texas as its resident state.
11. Neither Respondent Agency nor Respondent on behalf of Respondent Agency notified KID of the Missouri action within 30 days as required by K.A.R. §40-7-9(a) or a change of address as required by K.A.R. §40-7-9(f).
12. By letter of August 27, 2012, addressed to Respondent at his address of record, counsel for KID summarized the foregoing information and invited Respondent to reply if he disputed the facts.
13. Respondent replied, stating he did not report the action because he did not realize that he and Respondent Agency still had active licenses in Kansas.
14. Respondent further states that they are no longer involved in the business of insurance.

Applicable Law

15. 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: . . .
(7) Admitted to or been found to have committed any insurance unfair trade practice or fraud in violation of K.S.A. 40-2404 and amendments thereto. . . .”

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

16. K.S.A. 40-2404(11) defines the following unfair trade practice: “Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual.”

17. 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. 2011 Supp. 40-4909(b).

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 Respondent, as the responsible agent and as an officer of the entity, is accountable for the conduct of Respondent Agency.

20. The Commissioner finds, based on the factual findings of the Missouri Consent Order, that the licenses of Respondent and Respondent Agency may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent Agency has used fraudulent or dishonest practices.

21. The Commissioner further finds based on the same conduct that the licenses of Respondent and Respondent Agency may be revoked pursuant to K.S.A. 40-4909(a)(7) because Respondent Agency has, as a pattern and practice, committed an insurance unfair trade practice in violation of K.S.A. 40-2404(11).

22. Based on the foregoing findings, the Commissioner concludes that sufficient grounds exist for the revocation of Respondent’s insurance agent’s license and Respondent Agency’s insurance agency license pursuant to K.S.A. 40-4909(a).

23. The Commissioner further concludes both licenses may be revoked pursuant to K.S.A. 40-4909(b) because such license are not properly serving the interests of the insurer and the insurable interests of the public.

24. 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

25. 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 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

1. The Kansas nonresident insurance agent's license of **KERRY D. KISSLINGER** is hereby **REVOKED**;
2. THE Kansas nonresident insurance agency license of **Missouri Public Entity Benefits** is hereby **REVOKED**; and
3. **KERRY D. KISSLINGER** and **Missouri Public Entity Benefits** shall **CEASE and DESIST** from the sale, solicitation, or negotiation of insurance, doing any act toward the sale, solicitation, or negotiation of insurance, and/or receiving compensation deriving from the sale, solicitation, or negotiation of insurance in Kansas or on Kansas risks through business conducted on 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 __18th__ DAY OF SEPTEMBER 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 ___18th___ day of September 2012, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Kerry D. Kisslinger
Missouri Public Entity Benefits
4106 Windy Woods Ct.
Kingwood, TX 66345-1287

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