

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

In the Matter of the Kansas Nonresident)
Insurance Agent’s License of) Docket No. **4503--SO**
MATTHEW KOZLOWSKI)
NPN 15818531.)

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 Matthew Kozlowski (“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 is licensed as a nonresident agent to transact the business of insurance in Kansas and has been so licensed since July 13, 2011.
2. Respondent’s legal address is in Aventura, Florida, and his mailing address of record is 3300 NE 191st St., Apt. 1614, Aventura, FL 33180-2447.
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’s contract with Golden Rule Insurance Company (“Golden Rule”) was terminated for cause by letter dated July 31, 2012.
6. Golden Rule identified six applications Respondent submitted between August 25, 2011, and July 18, 2012, that omitted significant health history.
7. In each case, the consumer neither e-signed the application nor submitted his or her own application.
8. In addition, in several cases, Respondent refused to communicate with Golden Rule about the matter.

9. By letter of September 10, 2012, addressed to Respondent at his mailing address of record, counsel for KID invited Respondent to reply if he disputed the above facts.

10. The letter was returned by the United States Postal Service as “undeliverable as addressed/unable to forward,” and Respondent has not since notified KID of a change of address.

Applicable Law

11. 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: . . .

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

(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).

12. 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.”

13. K.A.R. §40-7-9(f) requires that a licensee report each change of residence address to the Commissioner within 30 days of the occurrence.

14. 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

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

16. The Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has used a fraudulent, coercive, or dishonest practice in submitting applications for insurance without the approval of consumers and in falsely representing medical history on the applications.

17. The Commissioner further finds based on the same conduct that Respondent's license may be revoked pursuant to K.S.A. 40-4909(7) for having committed an insurance unfair trade practice in violation of K.S.A. 40-2404(11).

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

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. The Commissioner further concludes Respondent's license may 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.

21. The Commissioner finds that because Respondent's residence address is also his mailing address and KID thus lacks any practical means of serving Respondent, Respondent has been constructively served with a copy of this Summary Order mailed to his last known address and has by his failure to maintain a current address waived actual notice of this action.

22. 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

23. 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 the Kansas nonresident insurance agent's license of **MATTHEW KOZLOWSKI** is hereby **REVOKED**. **It is further ordered**, that **MATTHEW KOZLOWSKI** 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 __4th__ 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 ___4th___ day of October 2012, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Matthew Kozlowski
3300 NE 191st Street, Apt. 1614
Aventura, FL 33180-2447

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