

**FINAL ORDER**

**EFFECTIVE: 5-22-12**

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

**In the Matter of the Kansas Resident )  
Insurance Agent’s License of )  
DOUGLAS J. LeVOTA ) Docket No. 4413--SO  
NPN #898541 )**

**FINAL ORDER**

**(Pursuant to K.S.A. 40-4909 and K.S.A. 77-516)**

**NOW** on this 22<sup>nd</sup> day of May 2012, this matter comes before the Presiding Officer Robert M. Tomlinson for prehearing conference, and on the motion of the Kansas Insurance Department (“KID”) to convert the prehearing conference into a summary proceeding for disposition of this matter. KID appears by and through counsel, Brenda J. Clary, staff attorney. Douglas J. LeVota (“Respondent”) appears *pro se* by telephone.

On March 27, 2012, KID issued a Summary Order proposing to revoke Respondent’s license pursuant to K.S.A. 2010 Supp. 40-4909 and K.S.A. 77-537. The Summary Order is adopted as the statement of allegations and notice of proposed action.

Respondent timely requested a hearing in response to the Summary Order as provided by K.S.A. 77-537. The hearing is held pursuant to the Kansas Administrative Procedure Act, K.S.A. 77-501 et seq. The Commissioner has authority under K.S.A. 40-4909 to take the proposed action and authority under K.S.A. 77-547 to hear the matter. The prehearing conference is held pursuant to K.S.A. 77-516 and 77-517.

KID moves to convert this prehearing conference into a summary proceeding for disposition of this matter, without further notice, pursuant to K.S.A. 77-516(b)(7).

### **Findings of Fact**

1. On March 27, 2012, KID served a Summary Order proposing to revoke Respondent's resident insurance agent's license.
2. KID served the Summary Order, pursuant to K.S.A. 77-537, to Respondent at his address of record: 6748 Fontana St., Prairie Village, KS 66208-1627.
3. The Summary Order alleges Respondent was licensed as a Kansas nonresident insurance agent in Kansas in 1999 and has been continuously licensed as a resident insurance agent in Kansas since March 15, 2010.
4. The Summary Order alleges Respondent held a Missouri insurance producer license from July 20, 1989 until the license expired on July 20, 2009.
5. The Summary Order alleges that in December 2005, while licensed as a Missouri resident producer, Respondent appeared pursuant to a subpoena before the Missouri Department of Insurance, Financial Institutions & Professional Registration ("Department"), and admitted submitting certain life insurance applications containing false agent report statements.
6. The Summary Order alleges that the Missouri Department apparently took no formal action at that time.
7. The Summary Order alleges that in April 2006, Respondent notified KID that he had moved to Kansas, and Respondent was issued a Kansas resident license, and that license lapsed on January 27, 2009.
8. The Summary Order alleges that on or about March 18, 2010, after Respondent's Missouri license had lapsed, Respondent submitted an application for a Missouri producer license.

9. The Summary Order alleges the Missouri Department issued a subpoena for Respondent to appear and answer questions regarding the information contained in his application.

10. The Summary Order alleges Respondent failed to appear in response to the subpoena.

11. The Summary Order alleges that by summary order served on April 25, 2011, Respondent's Missouri application was denied on the grounds that Respondent intentionally provided materially incorrect, misleading, incomplete or untrue information in the license application, violated insurance laws, or violated a regulation, subpoena or order of the director or other insurance commissioner, obtained or attempted to obtain a license through material misrepresentation or fraud, and/or improperly withheld, misappropriated or converted money or property received in the course of doing insurance business, and/or used fraudulent, coercive, or dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business.

12. The Summary Order alleges Respondent did not report the action to KID within 30 days, as required by K.A.R. §40-7-9(a), and had not reported it as of March 27, 2012, the day KID issued the Summary Order.

13. The Summary Order alleges that by letter of March 5, 2012, addressed to Respondent at his mailing address of record, counsel for KID summarized the foregoing facts and invited Respondent to reply in writing if he disputed the facts.

14. The Summary Order alleges Respondent had not replied to the letter as of March 27, 2012.

15. Respondent received the Summary Order and notice of proposed action, and timely requested a hearing as provided by K.S.A. 77-537.
16. On April 24, 2012, the Presiding Officer issued a Notice of Prehearing Conference, in which the prehearing conference was scheduled for May 22, 2012 at 10:30 a.m.
17. Respondent received the Notice of Prehearing Conference, and attended the prehearing conference by telephone.
18. On May 7, 2012, counsel for KID served a prehearing questionnaire by first class mail addressed to Respondent at his address of record.
19. A blank prehearing questionnaire form was mailed to Respondent with his notice of hearing, and the form directions require that the form be completed and returned at least one week prior to the prehearing conference.
20. Respondent has not filed a response to KID's prehearing questionnaire as of May 22, 2012.
21. Respondent has not filed or served a prehearing questionnaire.
22. This matter was set for prehearing conference pursuant to K.S.A. 77-516(b), and both parties received proper notice, including a statement that at the prehearing conference the proceeding, without further notice, may be converted into a conference hearing or a summary proceeding for disposition of the matter.
23. During the course of the prehearing conference, counsel for KID moved for conversion of the proceedings from prehearing conference to a summary proceeding for disposition of the matter.

24. The Presiding Officer explained to Respondent the significance of a motion for summary disposition, and granted Respondent the opportunity to further inquire as to the nature and effect of a summary disposition, including that if granted his license would be revoked without further proceedings.

25. Respondent had no objection to the conversion of the prehearing conference to summary proceedings for disposition of the matter.

**Applicable Law**

26. 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. . .

(2) Violated (A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder . . . (C) any insurance law or regulation of another state; or (D) any subpoena or order issued by the regulatory official for insurance in another state. . . .

(4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business. . . . [or]

(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).

27. 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).

28. K.A.R. §40-7-9 requires that a Kansas licensed agent report to the Commissioner within 30 days “[e]ach disciplinary action on the agent’s license or licenses by the insurance regulatory agency of any other state or territory of the United States” within 30 days of the occurrence. K.A.R. §40-7-9(a).

29. A prehearing conference may be converted into a summary proceeding for disposition of the matter, without further notice. K.S.A. 2010 Supp. 77-516(b)(7).

### **Conclusions of Law**

30. Pursuant to KID's motion, and without objection from Respondent, this matter is hereby converted to a summary proceeding for the disposition of this matter, without further notice.

31. The Commissioner concludes, based on the foregoing Findings of Fact, that prior to the prehearing conference Respondent received the Summary Order and notice of proceedings, the Notice of Prehearing Conference, and KID's prehearing questionnaire.

32. Respondent was aware of the allegations contained in the Summary Order and attended the prehearing conference scheduled in the Notice of Prehearing Conference.

33. Respondent failed, however, to respond to the prehearing questionnaire mailed to his address of record by KID. Respondent did not request additional time to respond to the prehearing questionnaire.

34. At no time during these proceedings has Respondent denied the allegations contained in the Summary Order, which are deemed undisputed.

35. The Commissioner concludes, based on the Missouri findings described in the Summary Order, Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(2)(C) because Respondent intentionally provided materially incorrect, misleading, incomplete or untrue information in the license application, violated insurance laws, or violated a regulation, subpoena or order of the director or other insurance commissioner, obtained or attempted to obtain a license through material misrepresentation or fraud, and/or improperly withheld, misappropriated or converted

money or property received in the course of doing insurance business, and/or used fraudulent, coercive, or dishonest practices or demonstrated incompetence, untrustworthiness or financial irresponsibility in the conduct of business in violation of Missouri law.

36. The Commissioner further concludes Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(2)(D) because Respondent violated a subpoena issued by the Missouri Department.

37. The Commissioner also concludes Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent has failed to report the Missouri action to the Commissioner as required by K.A.R. §40-7-9(a).

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

39. In addition, the Commissioner concludes 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.

#### **Policy to be Served**

40. 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 **DOUGLAS J. LeVOTA** is hereby **REVOKED**, and on and after the effective date of this order, **DOUGLAS J. LeVOTA** 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 22nd DAY OF MAY 2012, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



\_\_\_\_\_/s/ Robert M. Tomlinson\_\_\_\_\_  
Robert M. Tomlinson  
Asst. Commissioner of Insurance  
Presiding Officer



**Certificate of Service**

The undersigned hereby certifies that he/she served a true and correct copy of the above and foregoing **Final Order** on this   4th   day of  June  2012, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Douglas J. LeVota  
6748 Fontana St.  
Prairie Village, KS 66208-1627

And by hand delivery to the following:

Brenda J. Clary  
Staff Attorney  
Kansas Insurance Department  
420 SW 9<sup>th</sup> Street  
Topeka, Kansas 66612

\_s/ Jana L. Beethe \_\_\_\_\_  
Jana L. Beethe  
Legal Assistant