

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

In the Matter of the Kansas Nonresident )  
Insurance Agent's License of ) Docket No. **4480--SO**  
**GARY NEWTON** )  
NPN 16353515. )

**ORDER NUNC PRO TUNC**  
(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 corrects a clerical error in the order served August 20, 2012, and effective September 7, 2012, revoking the Kansas nonresident insurance agent's license of Gary Newton ("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 was licensed as a nonresident agent on September 20, 2011.
2. Respondent's legal and mailing address of record is 2 Clearvista Cv, St. Charles, MO 63303.
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 electronically for a license and Respondent's license was issued through National Insurance Producer Registry ("NIPR") online services.
6. Respondent's electronic payment for the license and transaction fees was declined by Respondent's financial institution.
7. Despite demands, Respondent has failed to make payment to NIPR.
8. By letter dated March 19, 2012, and addressed to Respondent at Respondent's address of record, KID requested that Respondent make payment within ten business days.

9. To date, KID has not received confirmation of payment to NIPR.
10. By letter of July 27, 2012, addressed to Respondent at his address of record, KID summarized the foregoing facts and invited Respondent to reply in writing if he disputed the facts.
11. To date, Respondent has not replied, and the letter has not been returned; thus, the facts are deemed undisputed.

### **Applicable Law**

12. 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: . . .

(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).

13. 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**

14. The Commissioner has jurisdiction over Respondent as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
15. The Commissioner finds, based on the facts contained in paragraphs 5 through 9, that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has demonstrated financial irresponsibility in business.
16. Moreover, the Commissioner finds, based on the facts contained in paragraph 8, that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent demonstrated a lack of trustworthiness by failing repeatedly to respond to communication from NIPR and from KID.

17. 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).

18. 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.

19. 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**

20. 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 **GARY NEWTON** is hereby **REVOKED**. **It is further ordered,** that **GARY NEWTON** 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 20th DAY OF AUGUST 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 Order Nunc Pro Tunc, Respondent** may submit any written objections with a request for a hearing on the modifications only pursuant to K.S.A. 77-537 and K.S.A. 77-542. Any objections and request for a hearing should be addressed to the following:

Zachary J.C. Anshutz, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> 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. 9<sup>th</sup> 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 \_\_\_14th\_\_\_ day of September 2012, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Gary Newton  
2 Clearvista Cv  
Saint Charles, MO 63303

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