

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of) Docket No. **4517--SO**
JAMES D. PITTLER)
NPN 2292143.)

SUMMARY 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 typographical error in the unopposed SUMMARY ORDER finding facts and refusing renewal of the Kansas nonresident insurance agent's license of James D. Pittler ("Respondent"), effective on the 20th day of November 2012.

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 May 26, 2005.
2. Unless renewed, Respondent's current license will expire on February 11, 2013.
3. Respondent's legal address is in Spotsylvania, Virginia, and his mailing address of record is 11006 Sanderling Court, Spotsylvania, VA 22553.
4. 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.
5. Following investigation, the Commissioner finds evidence sufficient to support the following findings of fact:
6. Respondent accepted gross premium of \$183,272.00 from local governments for approximately 11 insurance policies and failed to remit payment to the insurance company.
7. As of March 27, 2012, despite the company's efforts to collect, Respondent had made no payments.

8. By letter of April 24, 2012, addressed to Respondent at his mailing address of record, counsel for KID invited Respondent to reply within 15 business days if he disputed the foregoing facts.

9. Counsel for Respondent replied on May 8, 2012, stating that Respondent had hired an accountant to determine how the discrepancy occurred and requesting time to pay any premium owed.

10. KID agreed to review the matter in 60 days.

11. When Respondent had not provided additional information by October 18, 2012, counsel for KID again wrote to Respondent's attorney and advised that, absent a satisfactory explanation for the premium owed the company, KID intended not to renew Respondent's license.

12. To date, neither Respondent nor counsel for Respondent has replied, and the letter has not been returned.

13. Effective August 15, 2012, the South Carolina Director of Insurance revoked Respondent's South Carolina producer's license for placing insurance business without the appropriate authority and withholding insurance premium from insurers.

Applicable Law

14. 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: . . .

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

(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.

(9) Had an insurance license, or its equivalent, denied, suspended or revoked in any other state, district or territory." K.S.A. 2011 Supp. 40-4909(a).

15. 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

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

17. The Commissioner finds that Respondent's license may be revoked, suspended, or nonrenewed pursuant to K.S.A. 40-4909(a)(4) because Respondent has misappropriated or converted premium funds received in the course of doing insurance business.

18. The Commissioner finds that Respondent's license may be revoked, suspended, or nonrenewed pursuant to K.S.A. 40-4909(a)(8) because Respondent has either used a fraudulent, coercive, or dishonest practice or has demonstrated incompetence, untrustworthiness, or financial irresponsibility in business by failing to forward premium to the company or account for the funds.

19. The Commissioner finds that Respondent's license may be revoked, suspended, or nonrenewed pursuant to K.S.A. 40-4909(a)(9) because Respondent has had an insurance agent license, or its equivalent, revoked in South Carolina.

20. 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).

21. 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

22. 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 **JAMES D. PITTLER** shall expire on February 11, 2013, and not be renewed. **It is further ordered,** that **JAMES D. PITTLER** 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 expiration date of the license unless and until the license is reinstated by further 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 __3rd__ DAY OF DECEMBER 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 Nunc Pro Tunc** on this ___3rd___ day of December 2012, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

George J. Wooditch, Jr.
Anderson & Wooditch, P.C.
333 N. Fairfax Street, Suite 310
Alexandria, VA 22314

And pursuant to K.S.A. 77-531, also to the following:

James D. Pittler
11006 Sanderling Court
Spotsylvania, VA 22553

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