

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of) Docket No. 4483--SO
MARK A. PRUITT)
NPN 2825840,)
And the Kansas Nonresident) Docket No. 4485-SO
Agency License of)
Strategic Estate Planning Services, Inc.,)
License #752761815-000.)

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, accept surrender, and revoke the Kansas nonresident insurance agent's license of Mark A. Pruitt ("Respondent") and the Kansas nonresident agency license of Strategic Estate Planning Services, Inc. ("Respondent Agency" or "the 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 and has been so licensed since June 27, 2000.
2. Since February 13, 2006, Strategic Estate Planning Services, Inc., has been licensed as a Kansas nonresident agency.
3. Respondent is the Kansas licensed agent designated to be responsible for the agency's compliance with the insurance laws and regulations of Kansas.
4. Respondent's legal and mailing address of record is 2603 Sir Turquin Lane, Lewisville, TX 75056-5725, and the agency's addresses of record are the same.
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. On or about June 12, 2012, Respondent provided documents through the National Insurance Producer Registry (“NIPR”) attachment warehouse reporting an action against his individual license, Consent Order, No. 09-0645, issued by the Texas Commissioner of Insurance on August 11, 2009.
8. In the Consent Order, the Texas Commissioner found that Respondent sold unauthorized annuities on behalf of National Foundation of America (“NFOA”) from some time in 2006 to mid-2007 in violation of Tex. Ins. Code Ann. §101.102.
9. As a result of the finding, Respondent was assessed a civil penalty and his annuity sales were placed under supervision for a period of two years.
10. Respondent did not report this action to KID within 30 days or at any time prior to posting it with the attachment warehouse.
11. According to the NAIC Regulatory Information Retrieval System (“RIRS”), the Louisiana Department of insurance issued an order on August 23, 2011, imposing a penalty against Respondent for his failure to make a required disclosure on his license application.
12. Respondent did not report this action to KID and has not reported it to date.
13. The agency did not report either action or the misconduct.
14. By letter of August 15, 2012, KID summarized the foregoing facts and invited Respondent to reply in writing if he disputed the facts.
15. Respondent replied, in essence, that he did not report these actions because the Kansas license renewal procedure does not require an application and he has never been asked to review Kansas insurance law.
16. Respondent still did not provide a copy of the Louisiana order or any information about it.
17. Respondent did not dispute the facts summarized in paragraphs 6 through 13 above.
18. The reply indicates that Respondent, even after being cited to the applicable statutory provisions and regulation, has not yet familiarized himself with the Kansas reporting requirements.

19. In his reply, Respondent stated he would surrender his individual and the agency license if that is what KID wanted him to do.

Applicable Law

20. 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; . . . [or] (C) Any insurance law or regulation of another state. . . .

(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).

21. By regulation, “Each person licensed in this state as an insurance agent shall report the following to the commissioner of insurance within 30 days of occurrence: (a) Each disciplinary action on the agent's license or licenses by the insurance regulatory agency of any other state or territory of the United States; . . .” K.A.R. §40-7-9(a).

22. “The license of a business entity may be suspended, revoked or refused renewal if the insurance commissioner finds that any violation committed by an individual licensee employed by or acting on behalf of such business entity was known by or should have been known by one or more of the partners, officers or managers acting on behalf of the business entity and: (1) Such violation was not reported to the insurance commissioner by such business entity; or (2) such business entity failed to take any corrective action.” K.S.A. 40-4909(d).

23. Voluntary surrender of a license does not deprive the Commissioner of jurisdiction to institute or proceed with any disciplinary proceeding against the licensee. K.S.A. 40-4909(e).

24. 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

25. The Commissioner has jurisdiction over Respondent and Respondent Agency as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
26. The Commissioner finds, based on the facts contained in paragraphs 6 through 12, that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent has twice violated K.A.R. §40-7-9(a) by failing to report to the Commissioner within 30 days after another state's action against his insurance producer's license.
27. Moreover, the Commissioner finds, that Respondent knew or should have known that he was required to report the Louisiana action not later than the time he belatedly provided documents related to the Texas action to the National insurance Producer Registry attachment warehouse.
28. At best, Respondent knew it should be reported when KID contacted him about his failure to report the Louisiana and Texas orders, and still he did not provide a copy of the Louisiana order.
29. In addition, based on the facts contained in paragraphs 4 and 13, the Commissioner finds the same violations are attributable to the agency.
30. The Commissioner finds, based on the facts contained in paragraphs 8 and 9 and the findings contained in the Texas order, that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent, although he represents himself as an expert and an advisor, demonstrated a lack of competence and trustworthiness by steering clients into unauthorized annuity contracts issued by a sham nonprofit foundation.
31. Based on the same facts and the facts contained in paragraph 4, the Commissioner finds the same conduct is attributable to the agency.
32. 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 license pursuant to K.S.A. 40-4909(a).

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

34. 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

35. 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 proffered surrender of the Kansas nonresident insurance agent's license of **MARK A. PRUITT** and the nonresident insurance agency license of **STRATEGIC ESTATE PLANNING SERVICES, INC.**, is accepted and deemed not voluntary. Accordingly, both licenses are hereby **REVOKED**. **It is further ordered**, that **MARK A. PRUITT** and **STRATEGIC ESTATE PLANNING SERVICES, INC.**, 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 7th 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 ___7th___ day of September 2012, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Mark A. Pruitt
Strategic Estate Planning Services, Inc.
2603 Sir Turquin Lane
Lewisville, TX 75056-5725

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