

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of) Docket No. **4411--SO**
DAVID M. RAACK)
NPN 2083406)

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 David M. Raack ("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 January 6, 2011.
2. KID records further indicate Respondent's legal and mailing address is 40 Hwy 60, Monet, MO 65708.
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. By order dated April 29, 2011, Respondent was assessed a civil penalty by the Missouri Department of Insurance for failing to report an administrative action within 30 days of the action as required by Missouri law.
6. Respondent failed to report a FINRA suspension related to a bonus and moving expenses he was obligated to repay and failed to repay, and he contended that he was unaware of the order because he had moved and failed to notify FINRA of his change of address.

7. Respondent applied for and was issued a Kansas license on January 6, 2011.
8. Respondent's application did not disclose the FINRA suspension, and Respondent has not subsequently reported it to KID as required by K.A.R. §40-7-9.
9. Respondent did not report the Missouri action within 30 days and has not reported it to date.
10. By letter of March 6, 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.
11. The letter was returned as undeliverable, and Respondent has not notified KID of a change of address within 30 days as required by K.A.R. §40-7-9.

Applicable Law

12. K.S.A. 2010 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:

 - (1) Provided incorrect, misleading, incomplete or untrue information in the license application.
 - (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. 2010 Supp. 40-4909(a).
13. K.A.R. §40-7-9 sets out the following requirements:

“Agents; change in the information contained on the most recent application for a license. 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;
 - (b) each disciplinary action on an occupational license held by the licensee, other than an insurance agent's license, by the appropriate regulatory authority of this or any other jurisdiction; . . .
 - (f) each change in residence address; and

(g) each change in the name or address of the agency with which the agent is associated.” K.A.R. §40-7-9.

14. 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. 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, based on the facts contained in paragraph 5 that Respondent’s license may be revoked because Respondent has violated the insurance laws or regulations of another state.

17. The Commissioner also finds, based on the facts contained in paragraphs 5 and 8, 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(a) by failing to report a disciplinary action against his insurance agent license by another state.

18. In addition, the Commissioner finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(1) and/or (a)(2)(A) because Respondent neither disclosed the FINRA action on his application nor reported it to KID.

19. The Commissioner also finds, based on the facts contained in paragraphs 9 and 10, that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent has failed to report a change of address within 30 days as required by K.A.R. §40-7-9(f), and this violation is knowing and egregious in light of Respondent’s prior failure to notify FINRA of a change of address.

20. Finally, the Commissioner concludes that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has demonstrated a pattern of untrustworthiness and financial irresponsibility in business.

21. 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).

22. 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.

23. 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

24. 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 **DAVID M. RAACK** is hereby **REVOKED**.

It is further ordered, that **DAVID M. RAACK** 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 9th DAY OF APRIL 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 ___9th___ day of April 2012, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

David M. Raack
40 Hwy 60
Monet, MO 65708

_/_s/ Brenda J. Clary_____

Brenda J. Clary
Staff Attorney