

7. Question number 6 of the Old American Insurance Company ("Old American") application asks, "In the past 24 months have you had liver disease including cirrhosis, kidney failure, kidney dialysis or renal insufficiency or alcohol or drug abuse.
8. Respondent advised V.I.C. that she should answer "no" to the question.
9. Respondent completed the application, marked "no" on question number 6.
10. Respondent mouthed "no" on question number 6 when V.I.C. completed the telephone verification.
11. Respondent certified on the application that he knew "of no factors affecting the insurability of the proposed insured(s) except as stated."
12. The Old American policy was issued effective August 1, 2011.
13. V.I.C. entered hospice care in August and died November 25, 2011, of end stage liver disease.
14. The company initially denied the claim for benefits under the policy but paid the claim after further investigation.
15. By letter dated September 17, 2012, and addressed to Respondent at his address of record, counsel for KID invited Respondent to reply in writing by mail or email if he disputed the foregoing facts.
16. On September 19, 2012, Respondent left a voice mail message generally denying any knowledge of V.I.C.'s liver condition but did not respond in writing.
17. By letter of October 16, 2012, counsel for KID requested that Respondent provide a written response and answer specific questions regarding his contact with V.I.C.
18. To date, Respondent has not replied, and the letter has not been returned; thus, the facts are deemed to be undisputed.
19. In August 2011, Old American terminated Respondent's appointment following a report that Respondent had induced a consumer to surrender life insurance policies, loan Respondent the proceeds, and purchase new policies through Respondent.
20. Apparently, Respondent and the consumer reached an understanding, and the consumer did not wish to cooperate with KID's investigation.

Applicable Law

21. 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 . . .

(7) Admitted to or been found to have committed any insurance unfair trade practice or fraud in violation of K.S.A. 40-2404 and amendments thereto.

(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).

22. “Making false or fraudulent statements on or with reference to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual” is an unfair trade practice or fraud. K.S.A. 2011 Supp. 40-2404(11).

23. 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).

Conclusions of Law

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

25. The Commissioner finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(7) because Respondent has committed an insurance unfair trade practice or fraud by making false statements on and relative to an application for an insurance policy.

26. The Commissioner further finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has demonstrated a lack of trustworthiness in his limited response to KID’s inquiries, his failure to respond at all to follow-up questions, and his dealings with the consumer who loaned him money derived from an insurance product.

27. Based on the foregoing findings, the Commissioner concludes that sufficient grounds exist for the revocation of Respondent's insurance agent license pursuant to K.S.A. 2010 Supp. 40-4909(a).

28. Further, the Commissioner finds that Respondent's license should 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.

29. 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

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 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.

THE COMMISSIONER OF INSURANCE THEREFORE ORDERS that the Kansas resident insurance agent's license of **JOHN R. RANDALL** is hereby **REVOKED**, and **JOHN R. RANDALL** shall **CEASE and DESIST** from the sale, solicitation, or negotiation of insurance, receiving compensation deriving from the sale, solicitation, or negotiation of insurance conducted on and after the effective date of this

order, or performing any act toward the solicitation of or transaction of any business of insurance from 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 __8th__ DAY OF NOVEMBER 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 8th day of November 2012 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

John R. Randall
1279 S. 240th St.
Pittsburg, KS 66762-7858

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