

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of) Docket No. **4487--SO**
REGINALD L. SMALLS)
NPN 2029811.)

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 Reginald L. Smalls ("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 30, 2011.
2. Respondent's legal address is in Philadelphia, Pennsylvania, and his mailing address of record is PO Box 5652, Philadelphia, PA 19140.
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 through National Insurance Producer Registry ("NIPR") online services.
6. Background question number 2 of the application for a license asks, "Have you ever been named or involved as a party in an administrative proceeding regarding any professional or occupational license or registration?"
7. Respondent answered "no."
8. In reliance upon Respondent's statements, KID promptly issued the license.
9. On or about October 19, 2011, Respondent added an order to the NIPR attachment warehouse.

10. The document, a Consent Order issued by the Insurance Commissioner for the Commonwealth of Pennsylvania, docket number CO03-06-008, dated and effective August 13, 2003, ordered Respondent to pay a civil penalty and placed his license on probationary status for five years for misappropriation of premium.
11. Respondent did not notify KID of the omission from the application or otherwise correct his application information.
12. By Consent Order in docket number CO11-07-014, effective December 6, 2011, the Insurance Commissioner for the Commonwealth of Pennsylvania ordered Respondent to cease and desist from certain unlawful activities and pay restitution as a result of misappropriation of premium and transacting business without an appointment.
13. The Consent Order again placed Respondent's license on probation for five years.
14. To date, Respondent has not reported the 2011 Consent Order to the Commissioner.
15. By letter of August 14, 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.
16. To date, Respondent has not replied, and the letter has not been returned; thus, the facts are deemed undisputed.

Applicable Law

17. 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:
 - (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;
 - (3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud.
 - (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.” K.S.A. 2011 Supp. 40-4909(a).

18. K.A.R. §40-7-9(a) requires a licensee to report any disciplinary action by the insurance regulatory agency of another state.

19. 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

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

21. The Commissioner finds Respondent submitted an incomplete and incorrect application for a license, and based on that fact, Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(1).

22. Based on the same facts, the Commissioner finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(3) because Respondent obtained the license through misrepresentation.

23. The Commissioner further finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent has violated, and continues to violate, K.A.R. §40-7-9(a) by failing to report the 2011 Pennsylvania order as required by the regulation.

24. The Commissioner finds, based on the 2003 and 2011 Pennsylvania orders, that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(4) because Respondent has misappropriated premium funds in the course of doing insurance business and done so again after having been disciplined.

25. Based on the pattern of conduct demonstrated by all of the above facts, the Commissioner finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has used dishonest practices and demonstrated incompetence, untrustworthiness, or financial irresponsibility in business.

26. 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).

27. 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.

28. 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

29. 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 **REGINALD L. SMALLS** is hereby **REVOKED**. **It is further ordered**, that **REGINALD L. SMALLS** 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 11th 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 ___11th___ day of September 2012, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Reginal L. Smalls
PO Box 5652
Philadelphia, PA 19129

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