

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

In the Matter of the Kansas Nonresident )  
Insurance Agent's License of ) Docket No. **4402--SO**  
**EDMUND TAPIA,** )  
NPN 8396868. )

**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 Edmund Tapia ("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 Kansas nonresident insurance agent and has been so licensed since September 22, 2010.
2. KID records further indicate Respondent's legal and mailing address is 389 Birchwood Road, Medford, NY 11763.
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 was appointed as an agent of Time Insurance Company ("Time") through Assurant Health from September 22, 2010, until the appointment was terminated for cause by the company on October 14, 2011.
6. By letter of October 17, 2011, Time notified KID that Respondent's appointment was terminated for cause.
7. Upon KID's inquiry, Time provided additional information indicating that Respondent used his own contact information in place of the applicant's, used addresses that were not the applicants' to avoid verification of his appointment and

licensing, allowed someone other than the applicant to complete online verifications of application content, solicited business in states other than those in which he held proper licenses and appointments, failed to repay debit commission balances, and refused to provide information related to the company's investigation.

8. By letter dated November 22, 2011, and addressed to Respondent at his mailing address of record, counsel for KID recited the foregoing facts and invited Respondent to reply in writing within 15 business days if he disputed the facts.

9. To date, Respondent has not replied in writing; thus the facts are deemed undisputed.

### **Applicable Law**

10. 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: . . .

(2) Violated: (A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder; . . . (C) any insurance law or regulation of another state; . . .

(4) Improperly withheld, misappropriated or converted any moneys [sic] 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. 2010 Supp. 40-4909(a).

11. “Making false or fraudulent statements or representations on or relative 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 in violation of K.S.A. 40-2404(11).

### **Conclusions of Law**

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

13. The Commissioner finds that Respondent's license may be revoked or suspended pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent has made false

representations on an application for insurance policy for the purpose of obtaining benefits from an insurer in violation of K.S.A. 40-2404(11).

14. The Commissioner finds that Respondent's license may be revoked or suspended pursuant to K.S.A. 40-4909(a)(4) because Respondent has improperly withheld monies received in the course of doing insurance business.

15. Finally, the Commissioner finds that Respondent's license may be revoked or suspended pursuant to K.S.A. 40-4909(a)(8) because, Respondent has used fraudulent or dishonest practices and demonstrated incompetence, untrustworthiness, and financial irresponsibility in the conduct of business.

16. 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).

17. In addition, the Commissioner concludes that Respondent's insurance agent's license may 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.

18. 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**

19. 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. K.S.A. 49-4909(b). 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 **EDMUND TAPIA** is hereby **REVOKED**, and on and after the effective date of this order, **EDMUND TAPIA** shall not engage in the sale, solicitation, or negotiation of insurance, do any act toward the sale, solicitation, or negotiation of insurance, and/or receive compensation deriving from the sale, solicitation, or negotiation of insurance conducted on and after the effective date of this order in Kansas or with respect to Kansas risks.

It is further ordered, pursuant to K.S.A. 77-415(b)(2)(A), that this order is designated by KID as precedent.

**IT IS SO ORDERED THIS \_\_1st\_\_ DAY OF FEBRUARY 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. 9<sup>th</sup> 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. 9<sup>th</sup> 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   1st   day of February 2012, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Edmund Tapia  
389 Birchwood Road  
Medford, NY 11763

\_/\_/s/ Brenda J. Clary\_\_\_\_\_

Brenda J. Clary  
Staff Attorney