

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

In the Matter of the Kansas Nonresident )  
Insurance Agent's License of ) Docket No. **4401--SO**  
**MATTHEW E. WELLS,** )  
NPN 12900174. )

**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 Matthew E. Wells ("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 on May 18, 2011, Respondent submitted an application for a license as a nonresident agent to transact the business of insurance in Kansas, and in reliance upon the information contained in the application, KID issued the license on the same date.
2. KID records further indicate Respondent's legal and mailing address is 3820 Harriet Avenue, Minneapolis, MN 55409-1125.
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. Question 1 under Item 37 of the license application asked, "Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?"
6. Respondent answered "No."
7. On March 13, 2011, Respondent was arrested for obstruction/interference with a peace officer, and charged on March 14, 2011, with a violation of Minn. Stat.

§609.50.1(2), which is interfering with the duties of a peace officer using force or threat, a gross misdemeanor.

8. As of December 8, 2011, the case remained pending.

9. Respondent is appointed as an agent of Time Insurance Company (“Time”).

10. By letter of December 8, 2011, Time notified KID of the pending charges and provided copies of the charging document and Respondent’s explanation of the charges and their omission from the application.

11. Respondent states that he was confused by the question and incorrectly advised by his “superiors” that he should answer “no.”

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

13. To date, Respondent has not replied; thus the facts are undisputed.

#### **Applicable Law**

14. 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) Obtained or attempted to obtain a license under this act through misrepresentation or fraud. . . . [and/or]

(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).

#### **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 that Respondent’s license may be revoked or suspended pursuant to K.S.A. 40-4909(a)(1) because Respondent has provided untrue (i.e., false) information in the license application.

17. Further, the Commissioner finds that Respondent's license may be revoked or suspended pursuant to K.S.A. 40-4909(a)(3) because Respondent obtained a license through misrepresentation.

18. Finally, the Commissioner notes that accurately completing applications is material to the function of an insurance agent and finds that Respondent's license may be revoked or suspended pursuant to K.S.A. 40-4909(a)(8) because, if Respondent's explanation is accepted as true, Respondent has demonstrated incompetence or untrustworthiness in business.

19. 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).

20. 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.

21. 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**

22. 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 **MATTHEW E. WELLS** is hereby **REVOKED**, and on and after the effective date of this order, MATTHEW E. WELLS 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 KSA 77-415(b)(2)(A), that this order is designated by KID as precedent

**IT IS SO ORDERED THIS \_\_31st\_\_ DAY OF JANUARY 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   31st   day of January 2012, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Matthew E. Wells  
3820 Harriet Avenue  
Minneapolis, MN 55409-1125

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