

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

In the Matter of the Kansas Resident )  
Insurance Agent's License of )  
**KELVIN B. LAMBERT,** ) Docket No. **4585--SO**  
NPN 3423890. )

**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 resident insurance agent's license of Kelvin B. Lambert ("Respondent") by way of Summary Order as provided by K.S.A. 77-537.

**Findings of Fact**

1. 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 Respondent.
2. Following investigation, the Commissioner finds evidence sufficient to support the following facts:
3. Respondent was first licensed as a Kansas resident insurance agent on September 8, 2004.
4. Following a lapse on March 15, 2008, Respondent's license was reinstated on September 4, 2008, and Respondent has remained continuously licensed to date.
5. Respondent's legal and mailing address of record is 2308 Wilson Avenue, Leavenworth, KS 66048-4644.
6. Sometime late in 2011, Respondent contacted consumer V.B. regarding a proposed replacement of existing annuities, and V.B. gave Respondent a check for \$3500 as an initial premium payment for an "AIG" annuity.
7. In addition, V.B. gave Respondent the \$250 fee he quoted for him to prepare a will for her.

8. Respondent did not complete an application for the annuity or have further contact with V.B., and V.B. was unable to reach Respondent by telephone until January 2012.
9. V.B. was able to reach Respondent only after she reported the matter to the Kansas City, Kansas, police in January 2012 and obtained contact information through the police investigation.
10. V.B. demanded the refund of her money, and Respondent agreed to pay her in three installments.
11. As of October 2012, Respondent had refunded only \$500.
12. Respondent was not appointed as an agent of AIG at the time of the solicitation.
13. Respondent was not licensed to practice law in Kansas.
14. After receiving a consumer complaint from V.B., KID staff wrote to Respondent at his address of record on April 15, 2013, and requested his response within 15 business days.
15. Respondent did not reply within 15 business days, and the letter was not returned.
16. KID staff mailed a second inquiry on May 20, 2013, and again, Respondent did not reply and the letter was not returned.
17. By letter of June 25, 2013, addressed to Respondent at his address of record, counsel for KID invited Respondent to reply in writing within 15 business days if he disputed the foregoing facts.
18. Respondent did not reply within 15 business days, the letter was not returned, and Respondent has not replied to date; thus, the facts are deemed admitted.

**Applicable Law**

19. 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: . . .

  - (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. 2012 Supp. 40-4909(a).

20. 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. 2012 Supp. 40-4909(b).

21. "Any action taken under this section which affects any license or imposes any administrative penalty shall be taken only after notice and an opportunity for hearing conducted in accordance with the provisions of the Kansas administrative procedures act." K.S.A. 2012 Supp. 40-4909(c).

22. "Whenever the commissioner imposes any administrative penalty or denies, suspends, revokes or refuses renewal of any license pursuant to subsection (a), any costs incurred as a result of conducting an administrative hearing authorized under the provisions of this section shall be assessed against the person who is the subject of the hearing or any business entity represented by such person who is the party to the matters giving rise to the hearing." K.S.A. 2012 Supp. 40-4909(f).

### **Conclusions of Law**

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

24. The Commissioner finds Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(4) because Respondent has misappropriated or converted funds paid to him as insurance premium.

25. The Commissioner finds Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent used fraudulent and dishonest practices in obtaining funds from V.B. through misrepresentation.

26. Moreover, the Commissioner finds Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has demonstrated a lack of competence and trustworthiness in his failure to respond to inquiries by KID.

27. The Commissioner thus finds that sufficient grounds exist for the revocation of Respondent's insurance agent license pursuant to K.S.A. 2010 Supp. 40-4909(a).

28. Finally, the Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(b) because Respondent's license is not serving the interests of insurers 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 **KELVIN B. LAMBERT** is hereby **REVOKED** and **KELVIN B. LAMBERT** 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   19th   DAY OF JULY 2013, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



  /s/ Sandy Praeger    
Sandy Praeger  
Commissioner of Insurance

BY:

  /s/ John Wine    
John Wine  
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:

John Wine, 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

John Wine, 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 19th day of July 2013 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Kelvin B. Lambert  
2308 Wilson Ave.  
Leavenworth, KS 66048-4644

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