

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of)
JUSTIN McKINNON,) Docket No. **4581--SO**
NPN 16606473.)

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 nonresident insurance agent's license of Justin McKinnon ("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 is licensed as a Kansas nonresident insurance agent and has been continuously so licensed since April 24, 2012.
4. Respondent's legal address of record is 2344 N. Maple Island Road, Hesperia, MI 49421, and his mailing address of record is 445 State St., Fremont, MI 49412.
5. Respondent was appointed as an agent of Gerber Life Insurance Company ("Gerber Life") from April 26, 2012, until that appointment was terminated by letter dated March 1, 2013.
6. Respondent signed a criminal background certification, dated February 7, 2013, reflecting that he was convicted in 2013 of second degree home invasion, a felony.
7. Gerber Life requested Respondent's explanation of the offense and copies of court documents, but Respondent failed to provide them.
8. To date, Respondent has not reported any criminal conviction to KID.

9. By letter of March 27, 2013, addressed to Respondent at his mailing address of record, counsel for KID invited Respondent to reply in writing within 15 business days if he disputed the foregoing facts.

10. The letter was refused at that address and returned by the United States Postal Service.

11. By letter of April 8, 2013, addressed to Respondent at his legal address of record, counsel for KID again invited Respondent to reply in writing within 15 business days if he disputed the foregoing facts and to report a change of mailing address.

12. To date, Respondent has not replied or changed his mailing address in KID's records; thus, the facts are deemed undisputed.

Applicable Law

13. 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:

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

(6) Been convicted of a misdemeanor or felony. . . . [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. 2012 Supp. 40-4909(a).

14. K.A.R. §40-7-9 requires that a licensee report to the Commissioner within 30 days of the occurrence each change in the information provided in the license application, including changes of address and convictions.

15. 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).

16. “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).

17. “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

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

19. The Commissioner finds Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(2) because Respondent has violated K.A.R. §40-7-9 by failing to report a change of address and a felony conviction.

20. The Commissioner finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(6) because Respondent has been convicted of a felony.

21. The Commissioner finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has failed to cooperate with Gerber Life’s investigation of his criminal conviction.

22. The Commissioner thus finds that sufficient grounds exist for the revocation of Respondent’s insurance agent license pursuant to K.S.A. 2012 Supp. 40-4909(a).

23. 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.

24. 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 nonresident insurance agent's license of **JUSTIN McKINNON** is hereby **REVOKED** and **JUSTIN McKINNON** 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 __7th__ DAY OF MAY 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. 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

John Wine, 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 7th day of May 2013 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Justin McKinnon
2344 N. Maple Island Road
Hesperia, MI 49421

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