

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

In the Matter of the Kansas Nonresident)	
Insurance Agent’s Licenses of)	Docket No. 4546--SO
RICHARD RUSHING,)	
NPN 15666622, and)	
NORMA L. JOYCE,)	Docket No. 4551-SO
NPN 256347,)	
And the Kansas Nonresident)	
Insurance Agency License of)	Docket No. 4544--SO
AUA, Inc.,)	
Lic. No. 561543651-000.)	

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 licenses of Richard Rushing (“Respondent Rushing”), Norma L. Joyce (“Respondent Joyce”) and the Kansas nonresident insurance agency license of AUA, Inc. (“Respondent Agency”) 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 Rushing is licensed as a nonresident agent to transact the business of insurance in Kansas and has been so licensed since April 23, 2010.
2. Respondent Rushing’s legal address is in Hoover, Alabama, and his mailing address of record is Henley Insurance Unlimited, LLC, PO Box 36879, Birmingham, AL 35236-6879.
3. Respondent Joyce was licensed as a Kansas nonresident insurance agency on January 21, 2005, and remains so licensed.
4. Respondent Joyce’s legal address is in Madison, North Carolina, and her mailing address of record is 6257 NC 704 Road, Madison, NC 27025-1685.

5. Respondent Agency was first issued a license as a Kansas nonresident insurance agency on May 1, 1989, and has been continuously licensed since March 5, 2012.
6. Respondent Agency's legal and mailing address of record is 704 N. Regional Road, Greensboro, NC 27409, and the Kansas licensed agent identified as the agency contact and agent responsible for compliance is Respondent Joyce.
7. 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 respondents.
8. Following investigation, the Commissioner finds evidence sufficient to support the following findings of fact:
 9. North Pointe Insurance Company, Praetorian Insurance Company, and QBE Insurance Corporation terminated their individual appointments of Respondent Rushing and entity appointments of Respondent Agency, alleging the agency's failure to remit premium totaling \$79,618.03 and due between April 15 and September 15, 2012.
 10. U.S. Specialty Insurance Company terminated Respondent Agency's appointment as a result of the agency's failure to forward approximately \$309,904.25 to the company.
 11. Notices of termination from the companies identify Respondent Rushing as the principal of the agency, and supporting documents include the companies' demands for payment addressed to Respondent Rushing.
 12. In response to the company's notifications, KID addressed a letter of inquiry to Joyce for her response on behalf of Respondent Agency.
 13. Joyce replied that she previously owned Respondent Agency but sold 100 percent of the stock in the agency on November 1, 2010, to Respondent and Mylenda Rushing with the understanding that the buyers would renew the agency license in their own name.
 14. According to Respondent Joyce, the Greensboro, North Carolina office was closed in 2011, the agency was closed entirely at some point, and she does not have access to financial records.

15. By letter of November 20, 2012, addressed to Respondent Rushing at his mailing address of record, counsel for KID invited Respondent to reply if he disputed the above facts.

16. To date, Respondent Rushing has not replied, and the letter has not been returned; thus, the facts as to Respondent Rushing and Respondent Agency are deemed undisputed.

17. The agency license lapsed on January 29, 2012.

18. The application for the current license, issued on March 5, 2012, is dated February 22, 2012, and bears the original signature of Norma L. Joyce as "Vice President Sales."

19. The application lists Norma L. Joyce and Espie M. Joyce as officers with no ownership interest, identifies no other officers or owners, and names Respondent Joyce as the responsible agent.

Applicable Law

20. 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. . . .

(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).

21. 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

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

23. The Commissioner finds that the license of Respondent Agency may be revoked pursuant to K.S.A. 40-4909(a)(1) because the February 22, 2012, agency license application contained incorrect, misleading, incomplete, or untrue information as to ownership and management of the agency.

24. The Commissioner finds that the licenses of Respondent Rushing and Respondent Agency may be revoked pursuant to K.S.A. 40-4909(a)(4) because Respondent Rushing and Respondent Agency have misappropriated or converted the premium funds received in the course of doing insurance business.

25. The Commissioner finds that the licenses of Respondents Rushing and Joyce may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondents have either used a fraudulent, coercive, or dishonest practice or has demonstrated incompetence, untrustworthiness, or financial irresponsibility in business by failing to forward premium to the company or account for the funds.

26. In addition, the Commissioner finds that the licenses of Respondents Rushing and Joyce may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent Rushing has demonstrated a lack of trustworthiness in his failure to respond and Respondent Joyce has either used a dishonest practice or demonstrated untrustworthiness in her response KID's inquiries.

27. Based on the foregoing findings, the Commissioner concludes that sufficient grounds exist for revocation of Respondents' licenses pursuant to K.S.A. 40-4909(a).

28. 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.

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 Respondents, and after

investigation, KID believes in good faith that the allegations will be supported to the applicable standard of proof.

Policy to be Served

30. 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 licenses of **RICHARD RUSHING, NORMA L. JOYCE, and AUA, Inc.,** are hereby **REVOKED**. **It is further ordered,** that **RICHARD RUSHING, NORMA L. JOYCE, and AUA, Inc.,** 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 JANUARY 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 January 2013, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Richard Rushing
& AUA, Inc.
c/o Henley Insurance Unlimited, LLC
PO Box 36879
Birmingham, AL 35236-6879

AUA, Inc.
& Norma L. Joyce
6257 NC 704 Rd
Madison, NC 27025-1685

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