

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

In the Matter of the Kansas Resident )  
Insurance Agent’s License of )  
**CARLOS M. VASQUEZ,** ) Docket No. **4560--SO**  
NPN 8236773. )

**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 Carlos M. Vasquez (“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 originally licensed as a Kansas resident insurance agent on November 17, 2006, and that license lapsed on September 3, 2009.
4. Respondent was again licensed on November 21, 2011, as a bail bond agent only, and has been continuously so licensed.
5. Respondent’s legal and mailing address of record is 1002 S. Rosalie Street, Wichita, KS 67207-3248.
6. Respondent submitted his Application for Kansas Resident Insurance Producer License, through an authorized submitter, on November 15, 2011.
7. Question 1 of the application asks, “Have you ever been convicted of a crime, had a judgment withheld or deferred, or are you currently charged with committing a crime?”
8. Respondent answered “yes.”

9. To supplement affirmative answers, the applicant is required to attach a written statement explaining the circumstances of each incident, a copy of the charging document, and a copy of the official document that demonstrates the resolution of the charges.
10. Respondent submitted a statement disclosing a misdemeanor conviction of possession of marijuana but did not include charging and sentencing documents.
11. Respondent explained that a friend borrowed his car, leaving a bag of marijuana in it, and Respondent was charged with possession as a result.
12. Respondent stated that he had no other criminal record and agreed to plead guilty to resolve the matter.
13. In reliance upon the facts contained in the application and Respondent's clean record in Kansas state courts, the Commissioner promptly issued a license to Respondent without requiring Respondent to provide further documentation.
14. Subsequently, KID was notified of a paternity and child support case in which Respondent had argued that he should not be responsible for child support during the time he was incarcerated in federal prison.
15. In response to KID's inquiry, Respondent denied having been convicted of a felony and declined to provide additional information or documents KID requested.
16. Upon further investigation, KID learned through federal court records that Respondent was indicted along with several other persons in connection with an investigation of cocaine sales.
17. Initially charged with possession with intent to distribute cocaine in the United States District Court for the District of Kansas, case number 08CR10106-029, Respondent entered into a plea agreement and was sentenced on February 10, 2010, to 24 months imprisonment on a single count of use of a communication facility to facilitate the distribution of cocaine.
18. Later, Respondent, who is a permanent resident alien but not a citizen, collaterally attacked his conviction on the ground that he was incorrectly advised prior to his plea that he probably would not be deported as a result of the conviction.

19. The conviction was vacated, and Respondent again pled pursuant to a plea agreement, this time to possession of less than 30 grams of marijuana, and was sentenced on July 22, 2011, to time served.

20. Publicly available documents in that case reflect the factual basis for the plea, and Respondent's statement of the circumstances of the offense has no basis in fact.

21. In addition, based on the records of case number 08CR10106-029, it appears Respondent had a diversion in another criminal case, which he did not disclose on his application.

### **Applicable Law**

22. 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:

(1) Provided incorrect, misleading, incomplete or untrue information in the license application. . . .

(3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud. . . . [or]

(6) Been convicted of a misdemeanor or felony. . . .” K.S.A. 2011 Supp. 40-4909(a).

23. 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. 2011 Supp. 40-4909(b).

24. “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. 2011 Supp. 40-4909(c).

25. “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. 2011 Supp. 40-4909(f).

### **Conclusions of Law**

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

27. The Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(1) because Respondent provided incomplete and untrue information on his license application.

28. While the Commissioner would not have denied the application for a license solely based on a misdemeanor conviction of possession of marijuana, the Commissioner finds Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(3) because Respondent obtained or attempted to obtain his license through misrepresentation of the facts on his license application.

29. Finally, 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 criminal offense, and while the Commissioner would have discretion not to revoke Respondent's license based on a misdemeanor that is not a crime of dishonesty, Respondent's statement about the circumstances of the offense was entirely fictitious and self-serving.

30. 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).

31. 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 **CARLOS M. VASQUEZ** is hereby **REVOKED** and **CARLOS M. VASQUEZ** 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 \_\_6th\_\_ DAY OF MARCH 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 6th day of March 2013 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Carlos M. Vasquez  
1002 S. Rosalie Street  
Wichita, KS 67207-3248

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