

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

In the Matter of the Kansas Resident)
Insurance Agent’s License of)
JOSEPH ADAME,) Docket No. 4689-SO
NPN 6090243.)

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 Joseph Adame (“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 licensed as a Kansas resident insurance agent on August 29, 2011, and has remained continuously licensed to date.
4. Respondent’s legal and mailing address of record is 1614 Armstrong Avenue, Kansas City, KS 66102-4236.
5. From September 2011 until on or about September 4, 2013, Respondent was contracted with multiple Farmers insurance companies (“Farmers”) as a producer in Kansas.
6. A Farmers audit of fifty randomly reviewed policies reflected that Respondent, or someone submitting business under his agent identification, used fictitious credit or debit card information for 21 policies, used fictitious bills of sale to establish a recent vehicle purchase and qualify twenty insureds for a premium reduction, and applied a defensive driving discount for all fifty but was unable to produce a copy of the defensive driving certificate for any of the fifty.

7. By letter of May 29, 2014, addressed to Respondent at his mailing address of record, counsel for KID invited Respondent to reply in writing June 13, 2014, if he disputed the foregoing facts.

8. Respondent replied that the Farmers payment system was flawed because it did not reject erroneous debit or credit card information, that sales people at a car dealership falsified bills of sale for consumers to help them get liability coverage long after the purchase of a vehicle, and he was not required to provide proof of defensive driver training.

9. The audit shows that the same debit/credit card number was used on all 21 policies plus two additional policies that were out of force before the transactions failed; confronted with that information, Respondent again stated it was impossible for him or his office staff to know if a card number was used repeatedly.

10. Later, after additional investigation by Farmers and KID, Respondent explained that sales persons at car dealerships collected information, called his office for a quote, and then completed the application with payment or payment authorization, and Respondent would go to the dealership and pick up payments and signed forms later.

11. To the best of KID's knowledge and belief, none of the sales persons Respondent dealt with holds a license to sell, solicit, or negotiate automobile insurance business in Kansas.

Applicable Law

12. 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: . . .

(7) Admitted to or been found to have committed any insurance unfair trade practice or fraud in violation of K.S.A. 40-2404, and amendments thereto.

(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. . . .

(12) Knowingly accepted insurance business from an individual who is not licensed." K.S.A. 2013 Supp. 40-4909(a).

13. "Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission,

money or other benefit from any insurer, agent, broker or individual” is an insurance unfair trade practice. K.S.A. 2013 Supp. 40-2404(11).

14. 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. 2013 Supp. 40-4909(b).

15. “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. 2013 Supp. 40-4909(c).

16. “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. 2013 Supp. 40-4909(f).

Conclusions of Law

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

18. The Commissioner finds Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(7) because Respondent, or someone acting on behalf of Respondent, has made false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual, which is an insurance unfair trade practice as defined by K.S.A. 40-2404(11).

19. The Commissioner finds Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has either used fraudulent or dishonest practices or demonstrated incompetence in the conduct of his business.

20. The Commissioner finds Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(12) because Respondent has knowingly accepted and submitted insurance business solicited and sold by unlicensed persons.

21. Moreover, Respondent accepted insurance business solicited and sold by unlicensed persons as a pattern and practice and not on an isolated occasion.

22. The Commissioner thus finds that sufficient grounds exist for the revocation of Respondent's insurance agent license pursuant to K.S.A. 2013 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 resident insurance agent's license of **JOSEPH ADAME** is hereby **REVOKED** and **JOSEPH ADAME** 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 __5th__ DAY OF AUGUST, 2014, 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 5th day of August, 2014, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Joseph Adame
1614 Armstrong Avenue
Kansas City, KS 66102-4236

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