

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

In the Matter of the Kansas Resident)
Insurance Agent's License of)
RANDALL J. CHALUPA,) Docket No. **4694--CO**
NPN 17032374.)

CONSENT AGREEMENT AND ORDER
(Pursuant to K.S.A. 40-4909 and K.S.A. 77-501 et seq.)

Pursuant to the authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 40-103 and in accordance with K.S.A. 40-4901 *et seq.*, the Commissioner hereby accepts the stipulations of the parties and imposes sanctions against the license of Respondent RANDALL J. CHALUPA. This Consent Agreement shall become effective as a Final Order, without further notice when signed by the Commissioner or her designee and filed of record with the Kansas Insurance Department ("KID").

Findings of Fact

1. Respondent was licensed as a Kansas resident insurance agent on August 27, 2013, and has been continuously so licensed to date.
2. Respondent's residential address of record is in Overland Park, Kansas, and his mailing address of record is 11000 W. 125th Street, Overland Park, KS 66213-2162.
3. Respondent was appointed as an agent for Farm Bureau Life Insurance Company and Farm Bureau Property & Casualty Insurance Company ("Farm Bureau") from October 28, 2013, until June 2, 2014.
4. By letter dated August 7, 2014, Farm Bureau notified KID that Respondent's termination was for cause.
5. According to a report provided to KID by Farm Bureau, Respondent received a bonus for sales of 32 new policies from January through March 2014 under the terms of a Farm Bureau sales contest.

6. Following investigation, Farm Bureau determined that at least 16 of the new policies were fictitious, unauthorized, and/or contained incorrect personal identifiers and contact information.

7. KID gave notice of proposed action against Respondent's license based on the report, and Respondent timely requested a hearing, and the matter is now pending before the Commissioner.

8. For purposes of a consent agreement, Respondent neither admits nor denies the allegations but stipulates that evidence exists to support some or all of the findings of the Farm Bureau investigation and those findings constitute sufficient cause for KID to initiate action against his license.

9. In lieu of a hearing and uncertain disposition, Respondent agrees to surrender his Kansas resident insurance agent license.

10. Respondent further agrees to report the surrender immediately to the insurance regulatory agency of any other state in which he is licensed to sell, solicit, or negotiate insurance business.

11. Respondent acknowledges that the Commissioner's order must be reported to a database accessible to insurance companies and other regulators and will be an open record accessible to the public and posted on KID's website.

12. Respondent waives hearing and administrative and judicial review of the Commissioner's order.

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: . . .

(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." K.S.A. 2013 Supp. 40-4909(a).

14. "No person shall engage in this state in any trade practice which is defined in this act as, or determined pursuant to K.S.A. 40-2406 to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance." K.S.A. 40-2403.

15. The following is defined as an unfair method of competition or unfair and deceptive act or practice prohibited by K.S.A. 40-2403:

“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.” K.S.A. 2013 Supp. 40-2404(2).

16. If the Commissioner finds that a licensee “has engaged in an unfair method of competition or an unfair or deceptive act or practice, the Commissioner shall render an order requiring such person to cease and desist from engaging in such method of competition, act or practice,” and if the act or practice violates the specific provisions of K.S.A. 40-2404, the Commissioner may also impose a monetary penalty, suspend or revoke the person’s license, or order restitution to redress any injury from the misconduct. K.S.A. 40-2407(a).

17. “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).

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 from the report of Farm Bureau’s investigation that Respondent violated K.S.A. 40-2404(11) by submitting unauthorized new business in order to obtain the commission and a new business bonus from the company.

20. The Commissioner thus finds that Respondent is subject to action against his license, up to and including revocation, pursuant to K.S.A. K.S.A. 40-2407(a) and 40-4909(a)(7).

21. The Commissioner thus finds that sufficient grounds exist for action against Respondent’s insurance agent license pursuant to K.S.A. 2013 Supp. 40-4909(a) and the proposed remedy is both necessary and sufficient to protect the public.

Stipulation

The undersigned stipulates and agrees to the above findings fact and conclusions of law and waives his rights to administrative hearing and judicial review of the Commissioner's Order.

_ /s/ Randall J. Chalupa__ _12/1/14_
Randall J. Chalupa Date
Respondent

Prepared by:

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

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. Thus, the Commissioner is charged with promoting the security and integrity of the insurance business and protecting 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.

ORDER

THE COMMISSIONER OF INSURANCE THEREFORE ORDERS the following:

- 1. Involuntary Surrender of the Kansas resident insurance agent's license of RANDALL J. CHALUPA is hereby accepted, and the license is CANCELLED as of the date of this order,**
- 2. RANDALL J. CHALUPA shall immediately cease and desist from the sale, solicitation, and/or negotiation of insurance business in Kansas, and**
- 3. The pending administrative hearing process is hereby DISMISSED.**

IT IS SO ORDERED THIS __5th__ DAY OF DECEMBER 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 REGARDING JUDICIAL REVIEW

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 **Consent Agreement and Order** and accompanying **Notice of Rights** on this 5th day of December 2014 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Randall J. Chalupa
11000 W. 125th Street
Overland Park, KS 66213-2162

_s/ Jana L. Beethe _____
Jana Beethe
Legal Assistant