

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of)
RODRIGO V. DIAZ,) Docket No. **4682--SO**
NPN 16832030.)

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 Rodrigo V. Diaz ("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 nonresident insurance agent on November 21, 2012, and has remained continuously licensed to date.
4. Respondent's legal address of record is 1463 Frio Run, San Antonio, Texas and his mailing address of record is Allstate, 12238 Silicon Dr., Suite 150, San Antonio, TX 78249-3459.
5. Respondent was previously appointed as an agent for various Nationwide insurance companies ("Nationwide"), most recently from January 15, 2014, until termination of the appointment on March 27, 2014.
6. By letter of April 30, 2014, Nationwide Mutual Insurance Company notified KID that the company had determined cause existed for Respondent's termination, effective April 2, 2014.

7. According to reports and supporting documents provided by Nationwide, Respondent used a consumer's credit card number for two transactions to pay his personal debts in the total amount of \$1100.

8. Respondent admitted to Nationwide personnel that he had used the card information to pay outstanding fines.

9. By letter of July 2, 2014, addressed to Respondent at his mailing address of record, counsel for KID summarized the foregoing facts and invited Respondent to reply by July 18, 2014, if Respondent disputed the facts.

10. Respondent replied on July 17, 2014, that there were allegations but stated he helped the consumer "get to the bottom of" the charges and the consumer told him "it was a mistake."

11. Respondent was unable to provide support for his statement.

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: . . .

(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. 2013 Supp. 40-4909(a).

13. 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).

14. "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).

15. "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

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

17. The Commissioner finds Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(4) because Respondent has misappropriated property, i.e., financial card information, received in the course of doing insurance business and used it to divert a consumer’s funds to his own use.

18. The Commissioner finds Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has used fraudulent or dishonest practices.

19. 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).

20. 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.

21. 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.

ORDER

THE COMMISSIONER OF INSURANCE THEREFORE ORDERS that the Kansas nonresident insurance agent's license of **RODRIGO V. DIAZ** is hereby **REVOKED**, and **RODRIGO V. DIAZ** 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 __22nd__ DAY OF JULY 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 22nd day of July 2014 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Rodrigo V. Diaz
Allstate
12238 Silicon Dr., Suite 150
San Antonio, TX 78249-3459

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