

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

In the Matter of the Kansas Resident)
Insurance Agent's License of)
DOUGLAS M. FRITZIE,) Docket No. **4710--SO**
NPN 4930376.)

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 Douglas M. Fritzie ("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 November 14, 1994, and has remained continuously licensed to date.
4. Respondent's legal and mailing address of record is [REDACTED], Overland Park, KS [REDACTED].
5. Family members of C.O. contacted Respondent for assistance in obtaining veteran's benefits for C.O.
6. This contact resulted from Respondent's placing business cards in the long term care facility in which Ms. O. was a resident.
7. The business card represents that Respondent is a "Senior Specialist" with LTCARESOLUTIONS and suggests that he and/or the organization provides access to "VA benefits."
8. The background of the card appears to be an American flag.

9. Respondent has no authority to represent the United States Department of Veterans Affairs.
10. The designation "Senior Specialist" appears not to be a license or certification granted by any government or private credentialing authority.
11. Respondent met with Ms. O.'s adult children, including J. O., to assist them in determining Ms. O.'s eligibility for veteran's benefits.
12. Respondent promoted making Ms. O. financially eligible for aid and attendance benefits as a surviving spouse of a veteran by placing all of her assets in excess of \$80,000 into an annuity.
13. Because Ms. O. was beyond the age at which the company would issue an annuity, and Respondent sold two deferred annuities, funded with Ms. O.'s assets, to J.O. as both owner and annuitant.
14. The application and suitability worksheets reflected J.O.'s assets, investment experience, and financial goals rather than Ms. O.'s, but the four named beneficiaries, Ms. O.'s children including J.O., were all identified as "son" or "daughter."
15. Ms. O. died in February 2014, and the family discovered that the funds were not payable to the intended beneficiaries and were unavailable without surrender penalties.
16. Ms. O.'s children submitted a complaint to KID's consumer assistance division.
17. The insurer resolved the complaint by reversing the purchase and refunding the full amount of premium paid.
18. In response to KID's inquiry, Respondent stated his intent was to get the funds out of Ms. O.'s name, which KID notes was done by a transfer to J.O., and the annuity was extraneous.
19. Respondent stated he uses the senior specialist designation because he has experience and has taken classes and webinars on senior topics.
20. Respondent stated he works with several long term care facilities and has helped "hundreds" of veterans and their spouses receive benefits.
21. By letter of October 31, 2014, addressed to Respondent at his mailing address of record, counsel for KID invited Respondent to reply in writing November 14, 2014, if he disputed the foregoing facts.

22. Respondent has not replied, and the letter has not been returned; thus, the facts are deemed undisputed.

Applicable Law

23. 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: . . .

(2) Violated:

(A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder;

. . .

(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.” K.S.A. 2013 Supp. 40-4909(a).

24. “Making, issuing, circulating or causing to be made, issued or circulated, any estimate, illustration, circular, statement, sales presentation, omission or comparison which: (a) Misrepresents the benefits, advantages, conditions or terms of any insurance policy” is an insurance unfair trade practice. K.S.A. 2013 Supp. 40-2404(1).

25. “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).

26. The following regulations define additional insurance unfair trade practices: K.A.R. §40-2-14 (deceptive practices in the sale of life insurance and annuities), K.A.R. §40-2-14a (unsuitable annuity sales), and K.A.R. §40-9-23 (improper use of senior specific designation).

27. 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).

28. “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).

29. “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

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

31. The Commissioner finds Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent has violated K.A.R. §40-2-14 by using deceptive practices in the sale of annuities, K.A.R. §40-2-14a by making an unsuitable annuity sale, and K.A.R. §40-9-23 by improperly using a senior specific designation.

32. The Commissioner finds Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(7) and K.S.A. 40-2404(1) because Respondent falsely represented that placing Ms. O.’s funds into annuities was necessary to qualify Ms. O. for government benefits.

33. Further, the Commissioner finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(7) and K.S.A. 40-2404(11) because Respondent made false or fraudulent statements or representations on applications for annuities for the purpose of obtaining a fee, commission, money or other benefit from an insurer, agent, broker or individual, which is an insurance unfair trade practice as defined by K.S.A. 40-2404(11).

34. 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.

35. 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).

36. 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.

37. 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 **DOUGLAS M. FRITZIE** is hereby **REVOKED** and **DOUGLAS M. FRITZIE** 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 __19th__ DAY OF NOVEMBER 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 __19th__ day of November 2014 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Douglas M. Fritzie
[REDACTED]
Overland Park, KS [REDACTED]

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