

# FINAL ORDER

EFFECTIVE: 1-8-14

## BEFORE THE COMMISSIONER OF INSURANCE OF THE STATE OF KANSAS

In the Matter of the Kansas Resident )  
Insurance Agent's License of )  
**SCOTT A. GARTNER,** )  
NPN #931506 )

**Docket No. 4601-SO**

### FINAL ORDER

On December 6, 2013, a formal hearing was held in the above-captioned matter. Scott A. Gartner ("Respondent") appeared pro se. The Kansas Insurance Department appeared by and through Brenda J. Clary, Staff Attorney. Evidence and testimony presented at the formal hearing is hereby incorporated into the record in its entirety by reference.

### Findings of Fact

1. Respondent is a resident agent of the State of Kansas. Respondent's mailing address is listed as 5127 SW Brentwood Road, Topeka, KS 66606-2211. Respondent was first licensed as a resident agent in Kansas on October 21, 1987.
2. On August 30, 2013, the Kansas Insurance Department ("KID") issued a Summary Order revoking the Kansas resident agent license of Respondent pursuant to the provisions of K.S.A. 40-4909.
3. On December 4, 2013, KID issued a Complaint against Respondent requesting revocation of Respondent's license for violations of K.S.A. 40-4909.
4. The basis for the KID Summary Order and Complaint were as follows:
  - a. On July 30, 2013, the Kansas Securities Commissioner issued an emergency Order of Suspension suspending Respondent's registration as an investment adviser representative and a Cease and Desist Order against Respondent and Gartner Financial Group, LLC.
  - b. The Kansas Securities Commissioner alleged Respondent persuaded a Kansas resident to give Respondent \$10,000 to invest in 1913 Chinese bonds through untrue statements and omission of material facts regarding the value of the bonds and their future potential.

- c. The Securities Commissioner found Respondent had impeded an audit or inspection by refusing to cooperate and by supplying false information.
  - d. KID sent Respondent a letter on August 5, 2013 requesting response to the allegations set forth by the Securities Commissioner. Respondent replied via e-mail denying the substance of the Securities Commissioner's allegations.
  - e. Respondent failed to provide a written explanation of the transaction to KID beyond the general denial.
  - f. On September 18, 2013, KID Consumer Assistance Division ("CAD") staff received a complaint regarding the suitability of an annuity sale to Kansas Resident V.R.
  - g. CAD staff mailed an inquiry regarding the complaint to Respondent on September 19, 2013 requesting a response within fifteen (15) days.
  - h. Respondent did not respond to the inquiry.
  - i. On October 11, 2013, CAD received a consumer complaint on behalf of Kansas Resident W.H.N. regarding the suitability of annuity sales and recommendations Respondent made to W.H.N.
  - j. The inquiry requested a response within fifteen (15) days.
  - k. Respondent did not respond to the inquiry.
5. Respondent admitted numerous times at the formal hearing that he did not respond to the CAD inquiries.
  6. Respondent failed to report the Order of the Securities Commissioner to KID within thirty (30) days.
  7. Respondent timely requested a hearing on the Summary Order.

#### **Applicable Law**

The law applicable to this matter states in pertinent part:

1. K.S.A. 40-4909(a) – "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.
  - (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.
  - (b) In addition, the commissioner may suspend, revoke or refuse renewal of any license issued under this 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.
- 2. K.A.R. 40-7-9 – “Each person licensed in this state as an insurance agent shall report the following to the commissioner of insurance within 30 days of occurrence:
  - (a) Each disciplinary action on the agent’s license or licenses by the insurance regulatory agency of any other state or territory of the United States;
  - (b) Each disciplinary action on an occupational license held by the licensee, other than an insurance agent’s license, by the appropriate regulatory authority of this or any other jurisdiction...”

**Policy Reasons**

The Commissioner finds it is the public policy of the Kansas Insurance Department to protect the public health, safety and welfare of Kansas citizens in the business of insurance by ensuring compliance with all applicable insurance laws.

**Conclusions of Law**

- 1. The findings of the Kansas Securities Commissioner as set forth in the emergency Order of Suspension are hereby incorporated by reference.
- 2. Revocation of Respondent’s securities license and subsequent failure to report the revocation to KID constitutes K.A.R. 40-7-9(b) through K.S.A. 40-4909(2)(A).
- 3. The findings of the Kansas Securities Commissioner constitute violations of K.S.A. 40-4909(a)(8) by Respondent.
- 4. Pursuant to K.S.A. 40-4909(b), the interests of the public are not properly served by Respondent’s license.

5. Revocation of Respondent's license by the SEC via Consent Order constitutes a violation of K.S.A. 40-4909(a)(9).
6. Respondent's failure to report the action of the Missouri DOI to KID constitutes a violation of K.A.R. 40-7-9(a) and K.S.A. 40-4909(2)(A).

For the above-stated reasons, the Respondent's Kansas Resident Insurance Agent's License is hereby **REVOKED**.

**IT IS SO ORDERED THIS 8th DAY OF January, 2014, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



/s/ Zachary J.C. Anshutz  
Zachary J.C. Anshutz  
Assistant Commissioner  
Hearing Officer

Pursuant to K.S.A. 77-601 *et seq.*, Respondent is entitled to judicial review of this Final Order. The petition for judicial review must be filed within thirty (30) days of service of this Final Order (plus three [3] days for service by mail pursuant to K.S.A. 77-531). 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 R. Wine, General Counsel  
Kansas Insurance Department  
420 SW 9th Street  
Topeka, KS 66612

/s/ Jana L. Beethe  
Jana Beethe  
Legal Assistant

**CERTIFICATE OF SERVICE**

I hereby certify that I served a true and correct copy of the above and foregoing Final Order upon the parties listed below by causing it to be deposited in the United States mail, postage prepaid, on the \_\_8th\_\_ day of January 2014, addressed to the following:

Scott A. Gartner  
Gartner Financial Group  
5127 SW Brentwood Road  
Topeka, KS 66606-2211

Brenda J. Clary  
Staff Attorney  
Kansas Insurance Department  
Hand Delivered

\_s/ Zachary J.C. Anshutz\_\_\_\_\_

Zachary J.C. Anshutz  
Assistant Commissioner of Insurance  
Presiding Officer