

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

In the Matter of the Kansas Resident)
Insurance Agent's License of)
ALEXANDRIA J. HERNANDEZ,) Docket No. **4633--SO**
NPN 17110453.)

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 Kansas resident insurance agent's license of Alexandria J. Hernandez ("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. On December 10, 2013, Respondent applied for and was granted a Kansas resident insurance agent license.
4. Respondent's license was issued with life and health lines of authority.
5. Score reports from the examination vendor indicated that Respondent had passed the life and health insurance examination on November 14, 2013, on her second attempt, but failed the property and casualty examination on both November 23 and November 30, 2013.
6. Following the November 30 property and casualty examination, the examination vendor gave Respondent a score report at the examination site.
7. That report reflected that Respondent failed the examination and gave instructions for retaking the examination.

8. Respondent's employer was Brandon Meyer ("Meyer"), a State Farm Insurance ("State Farm") agent in Andale, Kansas.
9. At some time on or after November 30, Respondent provided Meyer with a score report reflecting that she passed the property and casualty examination with the minimum passing score of 98.
10. In reliance upon the document Respondent presented to him, Meyer forwarded the score report to KID in support of Respondent's application for property and casualty lines of authority.
11. The document Respondent presented to Meyer gives instructions for retaking the examination and reflects slight but visible variations in type size and density of the numerals showing the total score and several individual section scores and percentages and in the word "PASS."
12. The score report KID obtained directly from the vendor, including scoring for each individual question on the examination, reflects that Respondent failed the November 30 examination with a score of 94.
13. The text of the score report from a passing examination begins with "Congratulations on passing your insurance examination," concludes with "good luck in your insurance career," and does not give instructions on retaking the examination.
14. Respondent's legal address is in Burrton, Kansas, and her mailing address is PO Box 8, Burrton, KS 67020-0008.
15. By letter dated December 19, 2013, counsel for KID summarized the foregoing facts and invited Respondent to reply if she disputed the statements of fact.
16. Respondent replied by email on December 30, 2013, maintaining that she was thrilled to have passed her examination and understands that "technology does have glitches here and there."
17. Respondent also stated that she gave the score report to Meyer because he needed to submit it to State Farm for her certification as an agent of the company.
18. The Commissioner notes that KID staff has never encountered a discrepancy between scores reported by the vendor to KID and scores reported by the vendor to the examinee.

19. The Commissioner finds that Respondent's account is not credible because the score report is visibly altered, the passing and failing report forms are entirely different, and no reasonable person could believe that two electronic reports could be generated by the same system from the same data set and produce two different results on this one examination.

20. The Commissioner further finds that the actual score, based on scoring of individual questions was a failing score of 94, or 67 percent, and no matter how the score report was produced, Respondent is not qualified for property and casualty lines of authority.

Applicable Law

21. 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 . . .

(3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud. . . .

(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. . . .

(11) Improperly used notes or any other reference material to complete an examination for an insurance license issued under this act.” K.S.A. 2012 Supp. 40-4909(a).

22. 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. 2012 Supp. 40-4909(b).

23. A person whose license has been revoked or suspended may not be employed directly or indirectly by an insurance company and “may not perform any act toward the solicitation of or transaction of” insurance business. K.S.A. 2012 Supp. 40-4909(g).

24. “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. 2012 Supp. 40-4909(c).

Conclusions of Law

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

26. The Commissioner finds that the evidence overwhelmingly establishes that Respondent altered the failing score report from her November 30 property and casualty examination and attempted to use the altered report to obtain employment with Meyer and State Farm as well as to obtain her license to act as an agent for property and casualty lines of insurance, and concludes that Respondent's agent license may therefore be revoked pursuant to K.S.A. 40-4909(a)(3).

27. The Commissioner further finds from the same evidence that Respondent used a fraudulent or dishonest practice and concludes that Respondent's agent license may therefore be revoked pursuant to K.S.A. 40-4909(a)(8).

28. Although there is no evidence that Respondent used notes or other reference materials to complete her examinations, the Commissioner further finds that K.S.A. 40-4909(a)(11) states the clear policy that irregularity in the examination process or questionable examination scores should preclude licensure.

29. Further, the Commissioner concludes that Respondent's license may be revoked pursuant to K.S.A. 40-4909(b) because it is not serving the interests of insurers or the insurable interests of the public.

30. 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 **ALEXANDRIA J. HERNANDEZ** is hereby **REVOKED**, and **ALEXANDRIA J. HERNANDEZ** 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 __31st__ DAY OF DECEMBER 2013, 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 31st day of December 2013 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Alexandria J. Hernandez
PO Box 8
Burrton, KS 67020-0008

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