

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

In the Matter of the Kansas Resident)
Insurance Agent's License of)
MICHAEL H. ROGERS, JR.,) Docket No. **4642--SO**
NPN 16525886.)

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 Michael H. Rogers, Jr. ("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 is licensed as a Kansas nonresident insurance agent and has been continuously so licensed since February 1, 2012.
4. Respondent's legal and mailing address of record is 13821 Aldemy Street, Wichita, KS 67235-7040.
5. Respondent was appointed as an agent of various Farmers Insurance companies ("Farmers") on or about April 20, 2012, and those appointments were terminated for cause on or about October 14, 2013.
6. Farmers' investigation reflects that Respondent wrote 54 fictitious renters policies in May and August 2013 in order to meet requirements to continue receiving his career agent subsidy.
7. Fifty of the policies were cancelled for nonpayment, and two consumers filed complaints alleging that they received policies they did not request.

8. By letter of January 23, 2014, counsel for KID summarized the foregoing statements of fact and invited Respondent to reply if he disputed them.
9. Respondent replied on February 2, 2014, and asserted that the policies were written by other agents at the direction of his district manager.
10. Additional information obtained from Farmers reflects that 14 of the questioned policies contained Respondent's wife's home Yahoo address, 12 policies had payments by credit or debit cards linked to Respondent or his wife, and the district manager received returned mail addressed to eight different insureds all with the same mailing address, and a KID investigator was unable to corroborate Respondent's statements.
11. Further, 29 of the policies were written on May 20, 2013, and 23 were written August 13-15, 2013.
12. According to Farmers, Respondent admitted to the district manager that he had submitted fictitious business to remain on the career agent program and declined to speak with company auditors about the policies.

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 . . .

(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.” K.S.A. 2012 Supp. 40-4909(a).
14. A fraudulent insurance act is a crime defined as by K.S.A. 40-2,118 as follows:

“For purposes of this act a "fraudulent insurance act" means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of

misleading, information concerning any fact material thereto.” K.S.A. 40-2,118(a).

15. 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).

16. 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).

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. 2012 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 that Respondent committed a series of fraudulent insurance acts, and his license may therefore be revoked pursuant to K.S.A. 40-4909(a)(2)(A) and K.S.A. 40-2,118.

20. The Commissioner finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent engaged in a pattern of dishonest conduct.

21. 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.

22. 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 **MICHAEL H. ROGERS** is hereby **REVOKED**, and **MICHAEL H. ROGERS** 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 __18th__ DAY OF FEBRUARY 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 __18th__ day of February 2014 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Michael H. Rogers
13821 Aldemy Street
Wichita, KS 67235-7040

_/_s/ Brenda J. Clary_____

Brenda J. Clary
Staff Attorney