

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

In the Matter of the Kansas Resident)
Insurance Agent’s License of)
JEAN ANN BEERBOWER,) Docket No. **4736--SO**
NPN 13209257.)

PROPOSED DEFAULT ORDER
(Pursuant to K.S.A. 40-4909 and K.S.A. 77-520)

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 JEAN ANN BEERBOWER (“Respondent”) by Default Order as provided by K.S.A. 77-520.

Findings of Fact

1. Records maintained by the Kansas Insurance Department (“KID”) reflect that Respondent is licensed as a resident agent to transact the business of insurance in Kansas and has been so licensed since May 20, 2009.
2. KID records further indicate Respondent’s legal and mailing address of record is 107 W. Tyler St., Pittsburg, KS 66762-8501.
3. Following investigation, KID served a Summary Order pursuant to K.S.A. 77-537 to Respondent at her address of record, and Respondent received the Summary Order and timely requested a hearing as provided by K.S.A. 77-537 and the Summary Order.
4. Respondent was served with a Notice of Hearing setting a prehearing conference for Tuesday, April 7, 2015, at 10:00 a.m.
5. The notice further provided that Respondent should complete and file a prehearing questionnaire at least one week prior to the hearing and could make prior arrangements to appear by telephone.
6. Respondent did not file or serve a prehearing questionnaire and does not appear for the prehearing conference.

7. The Kansas Insurance Department appears by counsel, Brenda J. Clary, and is ready to proceed with the prehearing conference.

8. The Presiding Officer is the Assistant Commissioner of Insurance acting on behalf of the Commissioner of Insurance as the agency head as provided in K.S.A. 77-547.

Applicable Law

9. “If a party fails to attend or participate in a prehearing conference, hearing, or other state of an adjudicative proceeding, the presiding officer may serve upon all parties written notice of a proposed default order, including a statement of the grounds.” K.S.A. 77-520(a). “Within seven days after service of a proposed default order, the party against whom it was issued may file a written motion requesting that the proposed default order be vacated and stating the grounds relied upon.” K.S.A. 77-520(b). Unless a written motion is filed within the time allowed, the proposed default order will become effective at the expiration of the time allowed. K.S.A. 77-520(c).

10. Pursuant to K.S.A. 77-526(a), the Presiding Officer, the Assistant Commissioner of Insurance acting on behalf of the Commissioner of Insurance as the agency head as provided in K.S.A. 77-547, is empowered to render a Final Order.

Conclusions of Law

11. Respondent has been properly served notice of the allegations and proposed action and notice of the Prehearing Conference.

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

13. The Commissioner finds that Respondent has failed to appear for the prehearing conference and a proposed default order may and should be served.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT Respondent’s hearing proceeding is DISMISSED, and the findings of fact and conclusions of law and order of the Summary Order served upon Respondents on the 20th day of February 2015 are adopted by reference and made the final order of the Commissioner.

Unless vacated by further order, this Proposed Default Order shall become effective as a Final Order at the expiration of the time for filing a motion to vacate the order.

IT IS SO ORDERED THIS 7th DAY OF APRIL 2015, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



_____/s/ John Wine_____
John Wine
Assistant Commissioner of Insurance

NOTICE

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

Diane Minear, Interim General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

Certificate of Service

The undersigned hereby certifies that he/she served a true and correct copy of the above and foregoing **Proposed Default Order** on this __7th__ day of April 2015, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Jean Ann Beerbower
107 W. Tyler St.
Pittsburg, KS 66762-8501

_s/ Jana Beethe _____
Jana Beethe
Legal Assistant

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

In the Matter of the Kansas Resident)
Insurance Agent’s License of)
JEAN ANN BEERBOWER,) Docket No. **4736--SO**
NPN 13209257.)

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 Jean Ann Beerbower (“Respondent”), by way of Summary Order as provided by K.S.A. 77-537.

Findings of Fact

14. 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.

15. Following investigation, the Commissioner finds evidence sufficient to support the following facts:

16. Respondent was licensed as a Kansas resident insurance agent on May 20, 2009, and has been continuously so licensed to date.

17. Respondent’s legal and mailing address of record is 107 W. Tyler St., Pittsburg, KS 66762-8501.

18. From May 20, 2009, until January 5, 2015, Respondent was affiliated with the Gross Insurance Agency, Inc., and Ins. Agency Services, Inc., both in Fort Scott, Kansas.

19. On January 5, 2015, Respondent’s employment with the agencies was terminated.

20. According to a report from the agencies, on or about December 29, 2014, Respondent transferred \$239.88 in agency funds to pay her personal Cornerstone National auto policy.

21. On or about January 5, 2015, Respondent transferred \$152.53 from the agency account to pay her Bremen Farmers Mutual homeowner policy.
22. Respondent did not make a payment to the agency account in either case and did not have authority to make the premium payments from the agency account.
23. In addition, the agency reported that Respondent failed to complete service work for requested quotes and policy changes in at least 50 instances, and much of the work was found in a briefcase after Respondent's termination.
24. By letter dated January 14, 2015, and mailed to Respondent at her address of record, counsel for KID summarized the foregoing facts and invited Respondent to reply if she disputed the foregoing statements of fact.
25. Respondent replied on January 19, 2015, that she made the \$239.88 auto policy payment on January 2, 2015, and forgot to write her check to the agency, but the payment was never actually applied to her account.
26. Respondent acknowledged that she made the \$152.53 transfer for her homeowner policy on January 2, 2015, and, on January 19, 2015, contacted agency staff and promised to repay the agency on January 23, 2015.
27. Respondent further stated that she had been out of the office over the previous months for medical reasons and had some unfinished quotes but had kept in contact with consumers.
28. The Commissioner finds that Respondent's promise to repay the agency three weeks after the transfer of premium from the agency account constitutes proof that Respondent did not have funds available to make the premium payments on the date of the transfer or intent to make the payment to the agency on that date.
29. The Commissioner further finds that absence from work because of poor health does not adequately explain why any responsible agent would place unfinished work out of sight, preventing others from assisting her in completing the work, or fail to arrange for someone else to complete pending transactions.

Applicable Law

30. 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).

31. 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).

32. 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 in Kansas. K.S.A. 2013 Supp. 40-4909(g).

33. “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).

Conclusions of Law

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

35. The Commissioner finds from the fact that Respondent made unauthorized transfers from an agency account to pay her personal insurance premiums that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(4).

36. The Commissioner finds from the same facts and the fact that Respondent placed unfinished work out of sight rather than arranging for assistance in completing business in progress that Respondent’s license may also be revoked pursuant to K.S.A. 40-4909(a)(8).

37. Finally, 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.

38. 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) and K.S.A. 40-4906. 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. K.S.A. 40-4909(b). Thus, the Commissioner is charged 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 following action is appropriate to promote the security and integrity of the insurance business and protect insurance consumers.

THE COMMISSIONER OF INSURANCE THEREFORE ORDERS that the Kansas nonresident insurance agent's license of **JEAN ANN BEERBOWER** is hereby **REVOKED**, and **JEAN ANN BEERBOWER** 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 SO ORDERED THIS __20th__ DAY OF FEBRUARY 2015, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



_____/s/ Ken Selzer_____
Ken Selzer, CPA
Commissioner of Insurance

BY:

_____/s/ Diane Minear_____
Diane Minear
Interim 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:

Diane Minear, Interim 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

Diane Minear, Interim 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 20th day of February 2015 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Jean Ann Beerbower
107 W. Tyler St.
Pittsburg, KS 66762-8501

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