

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

In the Matter of the Kansas Nonresident)
Insurance Agent’s License of)
MATTHEW L. CASTILLO,) Docket No. **4726--SO**
NPN 8622688.)

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 nonresident insurance agent’s license of MATTHEW L. CASTILLO (“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 nonresident insurance agent on July 23, 2012, and has remained so licensed to date.
4. Respondent’s legal and mailing address of record is 2717 Miamisburg Centerville Rd., Ste. 215, Dayton, OH 45459-3704.
5. Respondent was appointed as an agent of the American Family Life Assurance Company of Columbus (“Aflac”) from July 2012 until the appointment was terminated for cause on or about October 28, 2014.
6. An Aflac investigation produced evidence that Respondent submitted bogus business, established a bogus group to get payroll rates, paid or demanded

commissions outside of Aflac processes, and forged applicants' signatures on applications or related forms.

7. By letter dated December 1, 2014, and mailed to Respondent at his address of record, counsel for KID summarized the foregoing facts and invited Respondent to reply by the close of business on December 15, 2014, if he disputed the statements of fact.

8. The letter was returned as undeliverable, and Respondent did not notify KID of a change of address within 30 days as required by K.A.R. §40-7-9(f) and has not notified KID of a change of address to date.

Applicable Law

9. 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. . .

(10) Forged another person's name to an application for insurance or to any document related to an insurance transaction.” K.S.A. 2013 Supp. 40-4909(a).

10. “Each person licensed in this state as an insurance agent shall report the following to the commissioner of insurance within 30 days of occurrence: . . . (f) each change in residence address; . . .” K.A.R. §40-7-9.

11. “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 as defined by K.S.A. 2013 Supp. 40-2404(11).

12. 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).

13. 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).

14. “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

15. The Commissioner concludes that service of Respondent at Respondent’s last known address provides constructive notice of the proposed action, and Respondent’s failure to maintain a current address in KID records acts as a waiver of his right to actual notice.

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

17. The Commissioner finds that Respondent’s license may be, and should be, revoked pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent violated K.A.R. §40-7-9(f) by failing to report a change of address.

18. The Commissioner finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(7) because the Respondent has committed unfair insurance trade practices by making false statements on or relative to applications for insurance for the purpose of obtaining compensation or other benefit.

19. Further, the Commissioner concludes based on the undisputed evidence contained in the Aflac investigation, that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(10) because Respondent forged the signatures of purported applicants on insurance applications.

20. 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.

21. 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 nonresident insurance agent's license of **MATTHEW L. CASTILLO** is hereby **REVOKED**, and **MATTHEW L. CASTILLO** 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 7th DAY OF JANUARY 2015, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



 /s/ Sandy Praeger
Sandy Praeger
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

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 7th day of January 2015 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Matthew L. Castillo
2717 Miamisburg Centerville Rd., Ste. 215
Dayton, OH 45459-3704

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