



11. According to the audit, Respondent paid several vendors directly without signed authorization from the insured.
12. According to the audit, Respondent's premium account was overdrawn as a result of overdraft charges and returned premium checks that Respondent never collected.
13. State Farm reports that Respondent, when confronted, admitted the facts summarized in paragraphs 6 through 12 above.
14. By letter of September 18, 2015, counsel for KID invited Respondent to reply in writing by October 5, 2015, if he disputed the above statements of fact.
15. Respondent contacted counsel for KID by telephone, and later by email, requesting extensions of time.
16. In his last contact, Respondent promised a reply by October 16, 2015.
17. To date, Respondent has not provided a response to the statements of fact; thus, the facts are deemed undisputed.

#### **Applicable Law**

18. 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; . . .

(4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business. . . [and/or]

(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. 2014 Supp. 40-4909(a).
19. “[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. 2014 Supp. 40-2,118(a).

20. 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. 2014 Supp. 40-4909(b).

21. 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. 2014 Supp. 40-4909(g).

22. “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. 2014 Supp. 40-4909(c).

### **Conclusions of Law**

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

24. The Commissioner finds that action may be taken against Respondent’s license pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent violated K.S.A. 40-2,118 on multiple occasions by falsifying documents in support of insurance claims under policies of consumers other than B.A. in order to obtain payment of B.A.’s claim when B.A. had no coverage in force and by submitting an application for homeowners coverage for B.A. that contained false statements of material fact.

25. The Commissioner finds that action may be taken against Respondent’s license pursuant to K.S.A. 40-4909(a)(4) because Respondent misappropriated premium funds due the company by failing to collect on bad checks and cover returned check charges in his premium account.

26. The Commissioner finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has engaged in a pattern of dishonest conduct and demonstrated untrustworthiness and financial irresponsibility in managing the insurance business of consumers and carrying out his responsibilities as an agent of State Farm.

27. 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.

28. 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 with 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 resident insurance agent's license of **ROBERT A. PINKERTON** is hereby **REVOKED**, and **ROBERT A. PINKERTON** 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 \_\_28th\_\_ DAY OF OCTOBER 2015, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



\_\_\_\_\_  
/s/ Ken Selzer  
Ken Selzer, CPA  
Commissioner of Insurance

BY:

\_\_\_\_\_  
/s/ John Wine  
John Wine  
Assistant Commissioner

**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, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> 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, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> 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 28th day of October 2015 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Robert A. Pinkerton  
1360 W. Yankee Rd  
Logan, KS 67646-5057

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