

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of)
ELIZABETH D. HOLT,) Docket No. 4772--SO
NPN 17291918.)

FINAL ORDER

(Pursuant to K.S.A. 40-4901 *et seq.* and K.S.A. 77-501 *et seq.*)

This matter came on for hearing on November 19, 2015. Respondent Elizabeth D. Holt ("Respondent") appeared *pro se*, and the Kansas Insurance Department ("KID") appeared by and through its staff attorney, Brenda J. Clary. Respondent does not dispute the facts alleged by KID or the applicable law but appears to present evidence on disposition, and the parties appear to present their arguments. For the reasons stated below, Respondent's Kansas nonresident insurance agent's license is hereby revoked.

Findings of Fact

1. On the 6th day of August 2015, KID served a Summary Order, pursuant to K.S.A. 77-537, proposing to revoke Respondent's license for breach of an agreement with the Commissioner that resulted in issuance of the license on a probationary basis.
2. Respondent timely requested a hearing as provided the Summary Order.
3. Respondent's June 16, 2014, application for a Kansas nonresident insurance agent's license was denied because of a misdemeanor conviction.
4. Under an agreement dated August 8, 2014, Respondent agreed to comply with a list of conditions, and KID agreed to issue a probationary license to Respondent.
5. Respondent's license was conditioned upon Respondent's remaining with a proposed employing agency and working under the supervision of the Kansas licensed agent who agreed to accept supervision and reporting responsibilities and also signed the agreement.
6. The agreement required Respondent to complete certain training and meet daily with a mentor within the agency, and it required the supervising agent to file quarterly reports with KID.
7. The agreement restricted Respondent's employment to the named agency and provided that if Respondent left the approved agency, the license would lapse.
8. Respondent was issued a conditional license on September 2, 2014.
9. Respondent completed the required training prior to issuance of the license, but no reports were filed, and on or about March 13, 2015, KID contacted Respondent.

10. Respondent reported that, in mid-September 2014, she had left the agency to work temporarily for another agency during the annual Medicare open enrollment, and in October 2014, the supervising agent left the approved agency.
11. Respondent was unable to return to the approved agency and lost contact with the supervising agent.
12. Respondent did not contact KID to attempt to modify the agreement when circumstances at the approved agency changed.
13. Respondent acknowledged that she continued to solicit insurance business and sell insurance in Kansas after leaving the approved agency.
14. The Commissioner finds that Respondent agreed to certain conditions but failed to comply.

Applicable Law

15. 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;

. . .

(6) Been convicted of a misdemeanor or felony. . . .

(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).
16. 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).
17. Subject to exceptions listed in K.S.A. 40-4904, it is “unlawful for any person to sell, solicit or negotiate any insurance within this state unless such person has been issued a license as an insurance agent in accordance with this act.” K.S.A. 2014 Supp. 40-4905(a).
18. The lapse of a license does not deprive the Commissioner of jurisdiction or right to proceed with disciplinary action against the license except that any such action must be taken within two years from termination of the license. K.S.A. 2014 Supp. 40-4909(e).
19. 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).

20. 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

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

22. The Commissioner finds that Respondent's license lapsed according to the terms of the agreement between KID and Respondent when Respondent ceased to work directly for the approved agency and under the supervision of her supervising agent.

23. The Commissioner thus 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. 40-4905(a) by soliciting insurance business in the state after her license lapsed in mid-September 2014 and continuing until at least May 2015.

24. The Commissioner finds that Respondent's application for a license could have been denied pursuant to K.S.A. 40-4909(a)(6) because of her misdemeanor conviction, and absent compliance with the conditions imposed under Respondent's probationary license, Respondent's license may be revoked on the same ground.

25. Although the Commissioner makes no finding that Respondent has engaged in dishonest conduct in the insurance business or caused harm to Kansas insurance consumers, the Commissioner notes a clear showing that Respondent has failed to perform her duties as a Kansas insurance agent under the agreement for a probationary license, and the Commissioner concludes from that Respondent's license may also be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent thus demonstrated a lack of trustworthiness in the conduct of her business and in her dealings with KID.

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 the following

1. That the Kansas nonresident insurance agent's license of ELIZABETH D. HOLT is hereby REVOKED,
2. ELIZABETH D. HOLT 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, and
3. Respondent is not barred from applying for a Kansas license in the future, but any future application by Respondent for a Kansas license shall be considered in light of circumstances then existing.

IT IS FURTHER ORDERED that, pursuant to K.S.A. 77-415(b)(2)(A), this order is designated by KID as precedent.

IT IS SO ORDERED THIS 20th DAY OF NOVEMBER 2015, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.





John Wine
Assistant Commissioner of Insurance

NOTICE REGARDING JUDICIAL REVIEW

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. 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 **FINAL ORDER** and accompanying **Notice** on this 20th day of November 2015 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Elizabeth Holt
206 E. 68th Terrace
Kansas City, MO 64113-2460



Jana Beethe
Legal Assistant