

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

In the Matter of the Kansas Nonresident )  
Insurance Agent's License of )  
**KENNETH J. WALA,** ) Docket No. 4792--SO  
NPN 17247615. )

**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 Respondent Kenneth J. Wala ("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 granted a Kansas nonresident insurance agent license on April 24, 2014, and has remained so licensed to date.
4. Respondent's legal and mailing address of record is 2090 W. Preserve Way, Apt. 106, Miramar, FL 33025-3909.
5. In December 2014, the KID consumer assistance division received a complaint from Kansas consumer G.W. alleging that Respondent sold her health insurance, effective July 1, 2014, that did not provide meaningful benefits.
6. Further G.W. alleged that the policy was cancelled near the end of August 2014 without her knowledge or authorization yet premium payments continued to be transferred from her bank account.
7. Prior to July 1, 2014, G.W. had sought health insurance coverage because she would lose her coverage through her retired husband's former employer when her husband became eligible for Medicare in July.
8. Respondent did not assist G.W. in purchasing an Affordable Care Act ("ACA") compliant policy even though her circumstances would have qualified for special enrollment.

9. Respondent told G.W. she would be getting a PPO plan with unlimited doctor visits and a co-pay of \$50.00 for \$224.25 per month and did not explain that she was purchasing a short-term major medical plan with a \$5000.00 deductible.
10. Respondent told G.W. that the premium would be \$209.00 plus \$14.50 per month for dental coverage and that she would be charged \$349.25 for the first month.
11. Respondent told G.W. that the additional cost for the first month was "to start the policy up."
12. Using G.W.'s debit card information, Respondent caused the following transfers of funds: \$100.00 to "ONE FAMILY HEALTHC" on June 30, 2014,  
\$249.25 to "HEALTH PLAN INNOVA" on July 1, 2014,  
\$14.50 to "HEALTH INSURANCE I" ON July 29, 2014,  
\$209.75 to "HEALTH PLAN INNOVA" on August 4, 2014,  
\$14.50 to "HEALTH INSURANCE I" ON July 29, 2014,  
\$224.25 to "ONE FAMILY HEALTHC" on September 2, 2014,  
\$224.25 to "ONE FAMILY HEALTHC" on September 29, 2014, and  
\$224.25 to "ONE FAMILY HEALTHC" on October 27, 2014.
13. Without G.W.'s knowledge or consent, Respondent cancelled the original policy, effective July 1, 2014, on August 31, 2014, and applied for a second policy on August 29, 2014, which was effective September 1, 2014.
14. Respondent collected the premium and fees during the term of the second policy and paid premium to HCC for that policy only with a business credit card.
15. Respondent did business as One Family Health Care, a Florida licensed insurance agency, and sold HCC policies through Health Insurance Innovations from sometime prior to July 1, 2014, until on or about August 31, 2014.
16. Respondent then sold HCC policies through a direct appointment as an agent for HCC until his appointment was terminated by the company effective May 12, 2015.
17. Respondent sold Kansas consumer K.S. a limited benefit short-term policy when she would have been eligible for special enrollment in an ACA compliant plan through the marketplace and charged additional fees of \$20 per month.
18. Respondent also sold a short-term policy to Kansas consumer B.S. and charged additional fees of \$144.00 over the six month term of the policy.
19. Based on Kansas Insurance Department records and information provided by HCC Life Insurance Company, the Commissioner concludes that Respondent inappropriately placed a Kansas consumer in a short-term limited benefit health plan, charged undisclosed fees, and replaced a policy for his own benefit without the knowledge and authorization of the consumer.
20. By letter dated October 19, 2015, and mailed to Respondent at his address of record, counsel for KID invited Respondent to reply by November 2, if he disputed any of the foregoing facts.
21. To date, Respondent has not replied; thus, the facts are deemed undisputed.

### Applicable Law

22. 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. . . .

(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

(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).

23. “Insurance agents shall have the right to compensation other than commissions from any insured or prospective insured on account of negotiation or procurement of or other services in connection with contracts of insurance policies including adjustment of claims if such compensation is based upon a written agreement between the insurance agent and insured specifying the amount of such compensation.” K.S.A. 2014 Supp. 40-4911.

24. “Making, issuing, circulating or causing to be made, issued or circulated, any estimate, illustration, circular, statement, sales presentation, omission or comparison which: . . . Misrepresents the benefits, advantages, conditions or terms of any insurance policy” is an insurance unfair trade practice as defined by K.S.A. 2014 Supp. 40-2404(1)(a).

25. 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).

26. 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).

27. “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**

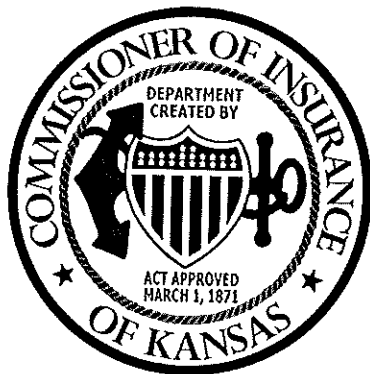
28. The Commissioner has jurisdiction over Respondent as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
29. The Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent collected fees from Kansas insureds without a written contract specifying the amount of fees and services provided in violation of K.S.A. 40-4911.
30. The Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(4) because Respondent used account information to transfer G.W.'s funds for purposes other than those for which G.W. gave him access to her account.
31. The Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(7) because Respondent committed the unfair trade practice by making statements to G.W. that misrepresented the benefits, advantages, conditions or terms of an insurance policy.
32. The Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has repeatedly demonstrated incompetence, untrustworthiness or financial irresponsibility in business in his dealings with G.W., K.S., and B.S.
33. 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.
34. 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 nonresident insurance agent's license of **KENNETH J. WALA** is hereby **REVOKED**, and **KENNETH J. WALA** 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 10th DAY OF NOVEMBER 2015, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Ken Selzer  
Ken Selzer, CPA  
Commissioner of Insurance

BY:

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.

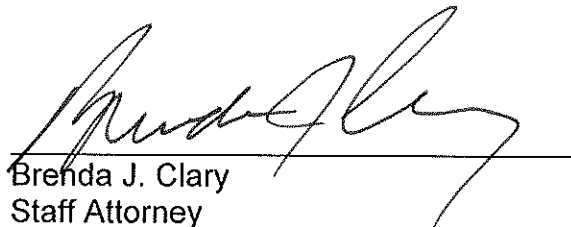
If a hearing is not requested in the time and manner stated above, this Summary Order shall become effective as a Final Order upon the expiration of time for requesting a hearing. In the event Respondent files a Petition for Judicial Review, pursuant to K.S.A. 77-613(e), the agency officer to be served 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 10<sup>th</sup> day of November 2015 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Kenneth J. Wala  
2090 W. Preserve Way, Apt. 106  
Miramar, FL 33025-3909

  
Brenda J. Clary  
Staff Attorney