

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

In the Matter of the Kansas Resident)
Insurance Agent's License of)
ERIC J. WENDLING,) Docket No. 4793--SO
NPN 7931539.)

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 ERIC J. WENDLING ("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 December 29, 2004, and has been continuously so licensed to date.
4. Respondent's legal address of record is in Olathe, Kansas, and his mailing address of record is 7300 College Blvd, Suite 500, Overland Park, KS 66210-1884.
5. Consumer J.B. submitted a complaint to the KID consumer assistance division alleging that he contacted Respondent to obtain insurance on a lake house in Missouri, and paid premium to Respondent, but never received a copy of a policy or a renewal notice at the end of the first year.
6. J.B. alleged that he contacted Respondent and Respondent gave him a quote for the renewal premium, which J.B. paid.
7. J.B. provided copies of cancelled checks showing he paid premium of \$1,955.10 and \$1,927.80 for 2013 and 2014.
8. The May 30, 2013, check is made out to The Links Group, and the June 10, 2014, check is made out to AutoMatic Insurance, LLC.
9. The Links Group was licensed as a Kansas resident insurance agency on January 23, 2013, with Respondent, Jonathan Payne, and Timothy Payne as the only

agents, and the license was voluntarily cancelled on September 17, 2015, by Timothy Payne.

10. Automatic Insurance, LLC, was licensed as a Kansas resident insurance agency on April 7, 2014, and remains licensed to date, and Respondent is the only agent ever affiliated with the agency.

11. In his response to KID's inquiry, received by KID on July 8, 2015, Respondent stated that the business had been brokered through Med James, that Automatic Insurance was closed in July or August 2014, and he no longer has access to records of Automatic.

12. Respondent stated that he would request bank records and records from the agency that now holds the business, but he did not provide documents or additional information.

13. Lexington National Insurance Company reported that policies were quoted both years but the company did not receive payment or confirmation that coverage should be bound.

14. Med James reported that Respondent requested the quote on May 21, 2013, Med James provided the quote, Respondent requested on June 4, 2013, that coverage be bound, Med James then requested additional information, which Respondent did not provide, so the request to bind was never submitted to Lexington National.

15. On August 12, 2013, Respondent requested that Med James requote the property, the quote was forwarded to Respondent, and Respondent did not respond, so no coverage was bound, and Med James did not receive payment.

16. Respondent emailed Med James on May 27, 2014, requesting a quote on the property, the quote was forwarded to him on June 9, 2014, and he did not request coverage to be bound or forward premium to Med James.

17. Respondent did not notify J.B. that he did not have coverage for the property, and he did not return the premium funds until after September 30, 2015, and he did so then at KID's direction.

18. By letter of October 6, 2015, counsel for KID invited Respondent to reply in writing if he disputed the statements of fact regarding the J.B. complaint as set out above.

19. Respondent replied that, to the best of his knowledge, a binding order was placed by email, there were additional underwriting questions that were not answered, and the policy was never issued.

20. Respondent stated that he spoke with J.B. the following year when J.B. needed to "renew" the policy and again received payment.

21. Respondent further stated that, in June 2015, he received a call from J.B. "regarding his renewal for the lake house," and referred him to another agency.

22. To date, Respondent has provided no financial records but did forward an email string between himself and J.B., and that communication is consistent with information received from the company, Med James, and the consumer.

Applicable Law

23. 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. . . . [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).

24. 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).

25. 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).

26. "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).

27. "Whenever the commissioner imposes any administrative penalty or denies, suspends, revokes or refuses renewal of any license pursuant to subsection (a), any costs incurred as a result of conducting an administrative hearing authorized under the provisions of this section shall be assessed against the person who is the subject of the hearing or any business entity represented by such person who is the party to the matters giving rise to the hearing. As used in this subsection, "costs" shall include witness fees, mileage allowances, any costs associated with the reproduction of documents which become a part of the hearing record and the expense of making a record of the hearing." K.S.A. 2014 Supp. 40-4909(f).

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 action may be taken against Respondent's license pursuant to K.S.A. 40-4909(a)(4) because Respondent received premium funds from J.B. on two occasions and neither forwarded the funds to an insurer nor returned them to J.B.

30. The Commissioner finds that action may be taken against Respondent's license pursuant to K.S.A. 40-4909(a)(8) because Respondent has used a dishonest practice and/or demonstrated incompetence and a lack of trustworthiness by failing to obtain the additional underwriting information needed to bind coverage on J.B.'s property in 2013, failing to tell J.B. that coverage was not in force, accepting additional premium in 2014 for "renewal" of a policy that did not exist, and again failing to place coverage or tell J.B. that he had no coverage.

31. 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.

32. 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

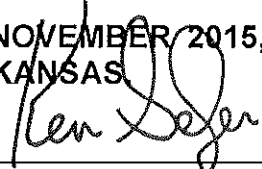
Before issuing an insurance agent license, the Commissioner must determine that the applicant is qualified and has not committed any act that would be grounds for denial, suspension, or revocation. K.S.A. 40-4905(b) and K.S.A. 40-4906. Further, the Commissioner may revoke any license issued under the 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 **ERIC J. WENDLING** is hereby **REVOKED**, and **ERIC J. WENDLING** 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 13th DAY OF NOVEMBER 2015, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS





Ken Selzer, CPA
Commissioner of Insurance

BY:



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. 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.

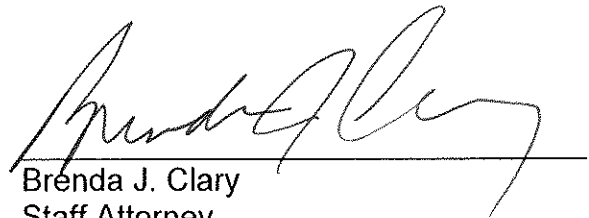
If a hearing is not requested in the time and manner stated above, this Summary Order shall become effective as a Final Order upon the expiration of time for requesting a hearing. In the event Respondent files a Petition for Judicial Review, pursuant to K.S.A. 77-613(e), the agency officer to be served on behalf of the Kansas Insurance Department is

Diane Minear, 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 13th day of November 2015 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Eric J. Wendling
7300 College Blvd, Suite 500
Overland Park, KS 66210-1884


Brenda J. Clary
Staff Attorney