

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

In the Matter of the Kansas Nonresident)
Insurance Agent's License of)
DUSTIN A. BAXTER,) Docket No. **4873--SO**
NPN 7976593)

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 **DUSTIN A. BAXTER** ("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 from April 11, 2005, until the license lapsed on January 3, 2009.
4. Respondent was licensed again on August 17, 2010, and has remained continuously licensed.
5. Respondent's residential address and mailing address of record is 2413 SE 5th Street, Lees Summit, MO 64063-3648.
6. On October 6, 2015, Aristocrat Holdings, LLC, doing business as Midwest Health & Wealth, submitted an electronic application for a Kansas insurance agency license and was issued a license on October 7, 2015.
7. Jacqueline Baxter was the authorized submitter.
8. Respondent and Jacqueline Baxter were identified on the application as the owners and Respondent and Jacqueline Baxter were identified as the responsible producers for the agency.
9. Payment of \$84.16 for the nonrefundable application fee and the NIPR service charge was made by credit card and submitted electronically to NIPR.
10. The credit card payment was disputed and charged back, and the fee and service charge were not paid.

11. The agency's legal and mailing address of record is 2413 SE 5th Street, Lees Summit, MO 64063.
12. NIPR made several attempts to contact Respondent without success, and Respondent did not make payment.
13. KID staff attempted to call the agency, Respondent, and Jacqueline Baxter at the business telephone number on the application and their individual telephone numbers according to KID records, and none of the numbers was a working number.
14. On February 25, 2016, KID staff mailed a letter about this matter to the agency's address of record and notified Respondent that the agency license could be cancelled or revoked if payment was not made to NIPR by March 9, 2016.
15. The letter was returned marked "Attempted—not known—unable to forward."
16. To date, the agency has not made payment.
17. To date, Respondent has not updated the agency's address in KID records.
18. Elizabeth Holt ("Holt") was licensed as a Kansas nonresident insurance agent on September 2, 2014.
19. Initially, Holt's application was denied based upon a recent conviction in federal court of a misdemeanor involving dishonest conduct.
20. Holt's application was subsequently granted subject to conditions outlined in a written agreement (the "agreement") between Holt and KID.
21. Respondent also signed the agreement as the agent responsible for supervision and reporting during Holt's probationary period.
22. The agreement required Respondent to file quarterly reports with KID regarding Holt's compliance and restricted Holt to employment with Midwest Health and Wealth with Respondent as her supervisor.
23. The agreement provided that the license would lapse if Holt left the approved employment.
24. No quarterly reports were filed.
25. Respondent left the agency in October 2014 without reporting the change to KID.
26. At about the same time, Holt was "loaned" to Medicare Compare USA for the 2014 annual enrollment period, and Respondent did not report the change.
27. Respondent responded by email and stated that the reason for the delinquent NIPR payment was due to Jacqueline Baxter disputing the NIPR payment on the joint credit card that Respondent shared with Mrs. Baxter.
28. Additionally, Respondent stated that he had an arrangement with Holt's lawyer wherein Respondent would provide Holt's lawyer with the quarterly reports and the lawyer would file them with KID.
29. Finally, Respondent specified Jacqueline Baxter took over the day-to-day operations of the agency on or about October 2014, and Respondent cannot attest to the agency's actions during that time period.

Applicable Law

30. 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;

(B) Any subpoena or order of the commissioner; 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. 2015 Supp. 40-4909(a).

31. K.A.R. §40-7-9 provides, in relevant part:

"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 . . ."

Conclusions of Law

32. The Commissioner has jurisdiction over Respondent as well as the subject matter of this proceeding, and such proceeding is held in the public interest. The Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(2)(A) because Respondent was a responsible producer for an agency that violated K.A.R. 40-7-9(f) by failing to report a change of address of the agency.

33. While the agreement with KID was not a formal order, the Commissioner issued a license to Holt in reliance upon Respondent's written agreement to supervise Holt. Thus, the Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(2)(B) because Respondent breached the conditions placed on an order of the Commissioner by failing to supervise Holt and file the required reports.

34. Finally, the Commissioner concludes that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent demonstrated a lack of trustworthiness by failing to perform the duties he accepted by agreement and failing to respond to multiple attempts by both NIPR and KID to contact him about the NIPR payment and demonstrated financial irresponsibility by failing to pay the application fee and NIPR service charge as agreed at the time of the application.

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 **DUSTIN A. BAXTER** is hereby **REVOKED**, and **DUSTIN A. BAXTER** 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 30th DAY OF JUNE 2016, 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.

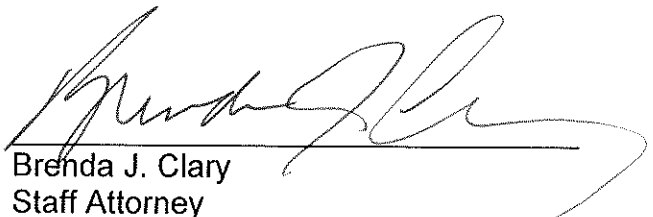
If a hearing is not requested in the time and manner stated above, this Summary Order shall become effective as a Final Order upon the expiration of time for requesting a hearing. In the event Respondent files a Petition for Judicial Review, pursuant to K.S.A. 77-613(e), the agency officer to be served 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 30th day of June 2016 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Dustin A. Baxter
2413 SE 5th Street
Lees Summit, MO 64063-3648


Brenda J. Clary
Staff Attorney