

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

In the Matter of the Kansas Resident)
Insurance Agent's License of)
BARBARA M. ENRIGHT,) Docket No. **4806--SO**
NPN 6124118.)

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 BARBARA M. ENRIGHT ("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 resident insurance agent on June 22, 2015, and has been continuously so licensed.
4. Respondent's legal address of record is in Olathe, Kansas, and her mailing address of record is 1410 E. Salem Lane, Olathe, KS 66062-2131.
5. Respondent submitted her electronic license application on June 22, 2015, and authorized an electronic funds transfer through KANPAY in the amount of \$30 to pay the application fee.
6. That transfer was returned on June 25, 2015.
7. Notices were sent to Respondent on August 28, 2015, and October 19, 2015, and Respondent did not make payment.
8. Kansas Insurance Department ("KID") staff attempted to contact Respondent about the payment, leaving voicemail messages on January 5, 2016, and January 7, 2016.
9. As of December 18, 2015, Respondent had not made payment or contacted KID.
10. By letter of December 18, 2015, counsel for KID invited Respondent to reply in writing if she disputed the statements of fact set out above.
11. To date, Respondent has not replied or made payment.

Applicable Law

12. 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;

. . .

(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).

13. K.S.A. 2014 Supp. 40-4905(b)(3) requires an applicant to pay a nonrefundable application fee at the time of making application for a license.

14. 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).

15. 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).

16. "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).

17. "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

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

19. The Commissioner finds that Respondent's license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has demonstrated financial irresponsibility in business by authorizing payment without sufficient funds in her account and by failing to make payment within a reasonable time after being notified of the failure of the electronic transfer.

20. Further, the Commissioner finds that Respondent's license could be cancelled because Respondent failed to satisfy the requirements of K.S.A. 40-4905(b)(3); however, Respondent's license should be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent's subsequent failure to make payment, or even respond to KANPAY or KID, further demonstrates untrustworthiness and financial irresponsibility in business.

21. 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.

22. 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

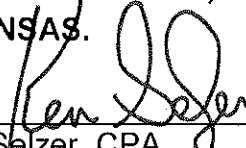
Before issuing an insurance agent license, the Commissioner must determine that the applicant is qualified and has not committed any act that would be grounds for denial, suspension, or revocation. K.S.A. 40-4905(b) and K.S.A. 40-4906. Further, the Commissioner may revoke any license issued under the 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 **BARBARA M. ENRIGHT** is hereby **REVOKED**, and **BARBARA M. ENRIGHT** 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 JANUARY 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 28th day of January 2016 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Barbara M. Enright
1410 E. Salem Ln
Olathe, KS 66062-2131


Brenda J. Clary
Staff Attorney