

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

In the Matter of the Kansas Resident	)	
Insurance Agent's License of	)	
<b>CODY MACK NELSON</b>	)	<b>Docket No. 4953-SO</b>
NPN 15901562	)	

**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 Cody Mack Nelson ("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 August 25, 2010, and has been continuously so licensed to date.
4. Respondent's legal (residential) and mailing address of record is 2818 N Litchfield Ave., Wichita, Kansas 67204-5023.
5. Respondent was appointed as an agent for Farmers Insurance Exchange, Farmers Insurance Company Inc., Farmers New World Life, Mid Century Insurance Company, Truck Insurance Exchange, Foremost Insurance Company, Foremost Signature Insurance Company, and Bristol West Insurance Company until those appointments were terminated for cause on or about August 17, 2016.
6. According to a mandatory report by Farmers Insurance to KID, Respondent was terminated for a myriad of reasons; including embezzlement, conversion, misappropriation or theft in connection with an agency Respondent operated, and disappearance of premium.

7. Specifically, the Farmers report asserts that Respondent did not deposit premiums into the Farmers bank account and that Respondent failed to provide an explanation for the missing monies.
8. Finally, the report states that an office Respondent operated is now vacant and that former customers of the Respondent have been unable to reach him regarding their insurance needs.
9. By letter of November 23, 2016, counsel for KID invited Respondent to reply in writing by December 9, 2016, if he disputed the statements of fact set out above.
10. To date, Respondent has not replied.

### Applicable Law

11. 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) Misappropriating or converting money or property 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. 40-4909(a).

12. 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. 40-4909(b).

13. "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. 2015 Supp. 40-4909(c).

14. 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. 2015 Supp. 40-4909(g).

### Conclusions of Law

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

16. The Commissioner finds that action may be taken against Respondent's license pursuant to K.S.A. 40-4909(a)(4) because Respondent improperly withheld funds paid to Respondent as insurance premium and belonging to an insurance company.

17. The Commissioner further finds that action may be taken against Respondent's license pursuant to K.S.A. 40-4909(a)(8) because Respondent has either engaged in dishonest conduct or demonstrated incompetence by failing to deposit insurance premiums belonging to an insurance company.

18. Moreover, the Commissioner finds that action may be taken against Respondent's license pursuant to K.S.A. 40-4909(a)(8) because respondent demonstrated untrustworthiness by abandoning his Farmers' office without notice to clients who were in need of insurance related services.

19. 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.

20. 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 **CODY MACK NELSON** is hereby

REVOKED, and CODY MACK NELSON 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 22<sup>nd</sup> DAY OF DECEMBER 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. 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 24<sup>th</sup> day of December 2016 by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Cody Mack Nelson  
2818 N Litchfield Ave.  
Wichita, KS 67204-5023

  
\_\_\_\_\_  
Phoenix Anshutz