

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

In the Matter of the Kansas)	
Insurance Agent's License of)	Docket No. 5024-SO
THOMAS L. MCKINNEY)	
NPN: # 8165308)	

SUMMARY ORDER

(Pursuant to K.S.A. 40-4909, K.S.A. 77-501)

Pursuant to the authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 40-4909, the Commissioner hereby revokes the agent's license of Respondent, **THOMAS L. MCKINNEY** ("Respondent"). This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for hearing is made, pursuant to K.S.A. 77-542.

Findings of Fact

The Commissioner finds the following facts:

1. Respondent was licensed as a Kansas resident insurance agent on November 1, 2004, and remains licensed to date.
2. Respondent's legal (residential) and mailing address of record is 20095 W. 108th St., Olathe, KS 66061.
3. In March 2017, investigators with the Olathe Police Department notified the KID Anti-Fraud division that they received information from Darin J. Johnson about possible identity theft involving Respondent.
4. Mr. Johnson indicated Respondent was his insurance agent.
5. Mr. Johnson observed several unauthorized payments from September 2016 through February 2017 from his account with Patriot Bank. The total amount from these unauthorized payments was \$7,498.12.
6. Mr. Johnson learned from bank personnel that Respondent's name along with his wife's name, Monica McKinney, were associated with the unauthorized withdrawals.
7. Mr. Johnson was reimbursed \$4,616.12 by Patriots Bank, but was still out \$2,882.00 for the transactions from September 13, 2016 through December 30, 2016.
8. According to an investigative report by a detective with the Olathe Police Department, Respondent admitted "accidentally" entering Mr. Johnson's bank information to pay his bills.
9. According to the investigative report, later in the recorded interview Respondent told the detective that he realized in February 2017 that the account he used to pay his bills did not belong to him, but he still used the account to make a mortgage payment.
10. The investigative report stated that Respondent told the detective that he knew the account did not belong to him, but that he did not know it belonged to Mr. Johnson.
11. Respondent told the detective that he had every intention of finding a way to pay back the money to the account that did not belong to him.

12. KID sent a letter to Respondent on April 13, 2017 inquiring about the aforementioned findings and allegations.
13. Respondent responded to the inquiry by letter on April 26, 2017.
14. Respondent denied that he told the detective that he realized the account did not belong to him, but used it anyway.
15. Respondent maintained that he believed the account numbers were his own.
16. Respondent explained that when his office opens a client file, it uses either a voided check to get the account and routing numbers or an Electronic Funds Transfer form.
17. Respondent further explained that he keeps a single personal check on his desk in order to input his account numbers when he does personal business at work.
18. Respondent explained that he grabbed the client's check instead of his own check by accident when putting in the account numbers to pay his personal bills. Respondent said he only paid attention to the account numbers and not the rest of the check.
19. Respondent explained that he was going to pay his mortgage bill online in February 2017. Respondent said he normally pays by phone, but there was an unusually long wait time so he decided to do it online. Respondent said he pulled the same account information online from his credit card website, believing the account belonged to him.
20. Respondent advised he immediately took steps to rectify the situation and plans on paying back the \$2100 to the client within a few weeks.
21. Respondent advised he now plans on paying all personal bills at home to prevent this situation from happening again.

Applicable Law

- Pursuant to K.S.A. 40-4909(a), "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) Use of any fraudulent, coercive, or dishonest practice, or demonstrating any incompetence, untrustworthiness or financial irresponsibility in the conduct of business." K.S.A. 40-4909(a)

Policy Reasons

1. It is in the public interest that the license of an agent who has demonstrated he or she has used any fraudulent or dishonest practice or demonstrated any incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state or elsewhere be revoked.

Conclusions of Law

1. The Commissioner has jurisdiction over **THOMAS L. MCKINNEY** as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
2. The Commissioner finds that Respondent's Kansas license may be revoked because **THOMAS L. MCKINNEY** has used a fraudulent and dishonest act or has demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in this state.
3. The Commissioner finds, pursuant to K.S.A. 40-4909(b), that the interests of the public are not properly served under Respondent's license.
4. Accordingly, the Commissioner concludes that sufficient grounds exist for the revocation of the insurance agent's license of **THOMAS L. MCKINNEY**, pursuant to K.S.A. 40-4909(a) and (b).

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

1. The Kansas nonresident Insurance Agent's License of **THOMAS L. MCKINNEY** is hereby **REVOKED** the effective date of this Order.
2. **IT IS FURTHER ORDERED** that **THOMAS L. MCKINNEY** shall **CEASE** and **DESIST** from the sale, solicitation or negotiation of insurance and/or receiving compensation deriving from the sale, solicitation or negotiation of insurance conducted after the effective date of this Order.

IT IS SO ORDERED THIS 8 DAY OF May, 2017, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Ken Selzer, CPA
Commissioner of Insurance

BY:

John Wine
Assistant Commissioner

NOTICE AND OPPORTUNITY FOR HEARING

THOMAS L. MCKINNEY, within fifteen (15) days of service of this Summary Order, may file with the Kansas Insurance Department a written request for hearing on this Summary Order, as provided by K.S.A. 77-542. In the event a hearing is requested, such request should be directed to:

Diane Minear, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

Any costs incurred as a result of conducting any administrative hearing shall be assessed against the agent/agency who is the subject of the hearing as provided by K.S.A. 40-4909(f). Costs shall include witness fees, mileage allowances, any costs associated with reproduction of documents which become part of the hearing record, and the expense of making a record of the hearing.

If a hearing is not requested, this Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period for requesting a hearing. The Final Order will constitute final agency action in the matter.


In the event the Respondent files a petition for judicial review, the agency officer designated pursuant to K.S.A. 77-613(e) to receive service of a petition for judicial review on behalf of the Kansas Insurance Department is:

Diane Minear, General Counsel
Kansas Insurance Department
420 S.W. 9th St.
Topeka, Kansas 66612

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served the above and foregoing Summary Order on this 8 day of May, 2017, by causing the same to be deposited in the United States Mail, first class postage/prepaid, addressed to the following:

Thomas L. McKinney
20095 W 108th St.
Olathe, KS 66061-3125



Steven M. Lehwald, KS Bar No. 26069
Staff Attorney