

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

In the Matter of the Kansas Resident)
Insurance Agent's License of)
CLAIBOURNE SHERMAN)
NPN: # 18151889)

Docket No. 74095

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 imposes sanctions against the license of Respondent, **CLAIBOURNE SHERMAN** ("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 October 23, 2016, and remains licensed to date.
2. Respondent's legal (residential) address of record is 349 Kisiwa Village Rd. Hutchinson, KS, 67502-4503.
3. On October 11, 2017, the Kansas Insurance Department ("KID") received a notice of termination for cause for Respondent from Christian Fidelity Life Insurance Company ("Christian Fidelity").
4. Christian Fidelity advised KID that Respondent circumvented replacement requirements by not disclosing the fact that replacements of existing life insurance policies occurred when issuing new products.
5. KID sent a letter to Respondent on July 5, 2018 detailing the allegations and asking for a response.
6. Respondent replied to the allegations on July 16, 2018 stating that she misunderstood the transaction as an addition to a policy and not a replacement, and acknowledged her mistake.

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 any provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder . . . [and/or] . . .
 - K.A.R. 40-2-12 Replacement of life insurance and annuities

- (8) Used any fraudulent, coercive, or dishonest practice, or demonstrated any *incompetence* [emphasis added], untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.
- K.S.A. § 40-4909(h) provides, in relevant part:
 - “(h) In lieu of taking any action under subsection (a), the commissioner may:
 - (1) Censure the person; or
 - (2) issue an order imposing an administrative penalty up to a maximum of \$500 for each violation but not to exceed \$2,500 for the same violation occurring within any six consecutive calendar months from the date of the original violation unless such person knew or should have known that the violative act could give rise to disciplinary action under subsection (a). If such person knew or reasonably should have known the violative act could give rise to any disciplinary proceeding authorized by subsection
 - (a), the commissioner may impose a penalty up to a maximum of \$1,000 for each violation but not to exceed \$5,000 for the same violation occurring within any six consecutive calendar months from the date of the imposition of the original administrative penalty.” K.S.A. 40-4909(h).

Policy Reasons

1. It is in the public interest that the license of an agent who has violated any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder be revoked or sanctioned.
2. It is in the public interest that the license of an agent who has demonstrated any incompetence in the conduct of business in this state or elsewhere be revoked or sanctioned.

Conclusions of Law

1. The Commissioner has jurisdiction over **CLAIBOURNE SHERMAN** as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
2. The Commissioner finds that Respondent may be sanctioned because **CLAIBOURNE SHERMAN** violated provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder.
3. The Commissioner finds that Respondent may be sanctioned because **CLAIBOURNE SHERMAN** demonstrated any incompetence in the conduct of business in this state or elsewhere.
4. The Commissioner finds, pursuant to K.S.A. 40-4909(b) and K.S.A. 40-4909(h), that the interests of the public are served by sanctioning Respondent’s license.
5. Accordingly, the Commissioner concludes that sufficient grounds exist for sanctioning the Kansas resident agent’s license **CLAIBOURNE SHERMAN**, pursuant to K.S.A. 40-4909(a), (b), and (h).

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

1. The Kansas resident Insurance Agent's License of **CLAIBOURNE SHERMAN** is hereby **SANCTIONED**, effective the date of this Order.
2. Respondent shall pay a monetary penalty of \$500.00 for violating K.S.A. 40-4909.
3. The penalty shall be paid in full by January 1, 2019. Failure to pay shall subject Respondent to show cause as to why her license should not be revoked.

IT IS SO ORDERED THIS 30th DAY OF July, 2018, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Ken Selzer, CPA
Commissioner of Insurance

BY:

Diane Minear
Diane Minear
General Counsel

NOTICE AND OPPORTUNITY FOR HEARING

CLAIBOURNE SHERMAN, 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.

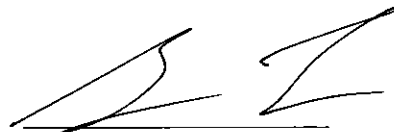
In the event the Respondent files a petition for judicial review, the agency officer designated pursuant to K.S.A. 77-613(e) to receive service of a petition for judicial review on behalf of the Kansas Insurance Department is:

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 30th day of July, 2018, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Claibourne Sherman
349 Kisiwa Village Rd.
Hutchison, KS 67502-4503



Steven Lehwald
Staff Attorney