

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

In the Matter of the Kansas Resident)
Insurance Agent's License of)
TRISHA A. WIEHL)
NPN: # 8830747)

Docket No. 74361

FINAL ORDER
(Pursuant to K.S.A. 40-4909 and K.S.A. 77-501 et seq.)

The Kansas Insurance Department ("KID") proposed to revoke the resident insurance agent license of **TRISHA A. WIEHL** ("Respondent") by a Summary Order dated August 9, 2018. Respondent requested a hearing on August 23, 2018 and a prehearing conference was set for October 15, 2018. Respondent submitted a document titled "Surrender of Kansas Resident Insurance Agent's License" to the Commissioner on September 5, 2018.

Having reviewed KID's allegations in the summary order and having considered the fact that Respondent wishes to now surrender her license, the Commissioner hereby revokes the agent's license of Respondent, TRISHA A. WIEHL.

Findings of Fact

1. Respondent was licensed as a Kansas resident insurance agent on June 16, 2006.
2. Respondent has a legal (residential) address of record of [REDACTED] and a mailing address of record of P.O. Box 147, Smith Center, KS 66967-2918.
3. KID issued a summary order on August 9, 2018 proposing to revoke Respondent's agent license based on the following alleged facts.
 - a. On February 13, 2018, the Kansas Insurance Department ("KID") received a complaint from Brian Wood, an attorney representing Buckeye Insurance Company ("Buckeye") out of Ohio.
 - b. Buckeye advised the following:
 - i. Respondent had a checkbook for an account belonging to Buckeye.
 - ii. These draft checks provided Respondent with the ability to settle small claims from the local office for Buckeye customers.

- iii. Buckeye noticed an unusual number of draft checks were written to the same vendor during a specific period.
- iv. Buckeye discovered thirty three (33) draft checks were issued to SCI Body Shop in Kensington, KS, totaling \$100,888.58. These checks were written during the last quarter of 2017.
- v. Buckeye's review found most of the checks written were claims filed against the comprehensive side of the coverage and were low dollar amounts.
 1. Buckeye advised this would not affect consumer's premium rates.
- vi. Buckeye was not able to verify that SCI body shop existed.
- vii. Buckeye followed up on claim information with customers related to the questionable drafts and found:
 1. █████ claimed no knowledge of any automobile claims and denied making any claims to his insurance in 2017. (Claim # █████ \$3,435.08 paid to S.C.I.)
 2. █████ claimed no claims were made to Buckeye Insurance in 2017. (Claim # █████ \$1,105.50 paid to S.C.I.)
 3. █████ verified a claim was made for an auto accident involving a deer; however, claimed vehicle was taken to Mace Auto Body in Smith Center, Kansas. (Claim # █████ \$3,435.08 paid to S.C.I.)
 4. █████ stated no claims were filed with Buckeye in 2017. (Claim # █████ \$1919.38 paid to S.C.I.)
 5. █████ denied making any claims to his insurance in the past five (5) years. (Claim # █████ \$3435.17 paid to S.C.I.)
- c. KID investigators received a repair estimate invoice marked as coming from S.C.I. Body Shop located at 202 South Main, Kensington, KS, which accompanied each "agent draft authority" form submitted for the questionable checks.
- d. KID's investigation found or confirmed the following:
 - i. There were actually thirty six (36) questionable draft checks.
 - ii. SCI body shop did not exist.
 - iii. The total amount involved for the last quarter of 2017 was \$108,117.11
 - iv. Customer █████ advised he never filed a claim.

- v. Customer [REDACTED] and [REDACTED] advised they never filed the claims alleged.
 - vi. Customer [REDACTED] stated he never filed a claim.
 - vii. Customer [REDACTED] stated he never filed a claim.
 - viii. Customer [REDACTED] stated he never filed a claim.
 - ix. Customer [REDACTED] stated he never filed a claim.
- e. Respondent, in the presence of her attorney, admitted to KID investigators that she signed the checks, endorsed the checks with the initials “SCI”, and submitted the agent draft authority along with an invoice listing SCI as a body shop that she designed to Buckeye on thirty-five separate checks.
 - f. One check, totaling \$3,454.02, was signed by somebody other than Respondent.
 - g. The total of the checks involved that Respondent admitted to amounted to \$104,663.09.
 - h. Respondent’s attorney told the KID investigator that Respondent was taking total responsibility for the matter.
- 4. Respondent requested a hearing on the Summary Order on August 23, 2018 and a prehearing conference was scheduled for October 15, 2018.
 - 5. Respondent submitted a document titled “Surrender of Kansas Resident Insurance Agent’s License” to the Commissioner on September 5, 2018 through her legal counsel.
 - 6. The Presiding Officer finds that Respondent no longer wishes to challenge KID’s allegations in its summary order dated August 9, 2018 so they are held to be true.

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;...[and/or]
 - (4) Improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business.

- (5) Intentionally misrepresented the provisions, terms and conditions of an actual or proposed insurance contract or application for insurance.
- (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)
- Pursuant to K.S.A. 40-2,118(a), "fraudulent insurance act" means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent thereof, any written, electronic, electronic impulse, facsimile, magnetic, oral, or telephonic communication or statement as part of, or in support of, an application for the issuance of, or the rating of an insurance policy for personal or commercial insurance, or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance which such person knows to contain materially false information concerning any fact material thereto; or conceals, for the purpose of misleading, information concerning any fact material thereto.
- Pursuant to K.S.A. 77-526(a), the Presiding Officer, the Assistant Commissioner of Insurance acting on behalf of the Commissioner of Insurance as the agency head as provided in K.S.A. 77-547, is empowered to render a Final Order.

Policy Reasons

1. It is in the public interest that the license of an agent who improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business be revoked.
2. It is in the public interest that the license of an agent who intentionally misrepresented the provisions, terms and conditions of an actual or proposed insurance contract or application for insurance be revoked.
3. It is in the public interest that the license of an agent who has committed a fraudulent act be revoked.

Conclusions of Law

1. The Commissioner has jurisdiction over **TRISHA A. WIEHL** as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
2. The Assistant Commissioner of Insurance is acting on behalf of the Commissioner of Insurance as the agency head and is empowered to render a Final Order as the Presiding Officer.
3. The Commissioner finds that Respondent's Kansas license may be revoked because **TRISHA A. WIEHL** improperly withheld, misappropriated or converted any moneys or properties received in the course of doing insurance business.
4. The Commissioner finds that Respondent's Kansas license may be revoked because **TRISHA A. WIEHL** intentionally misrepresented the provisions, terms and conditions of an actual or proposed insurance contract or application for insurance.
5. The Commissioner finds that Respondent's Kansas license may be revoked because **TRISHA A. WIEHL** committed a fraudulent act.
6. 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.
7. Accordingly, the Commissioner concludes that sufficient grounds exist for the revocation of the insurance agent's license of **TRISHA A. WIEHL**, pursuant to K.S.A. 40-4909(a) and (b).

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

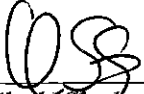
1. The Kansas Resident Insurance Agent's License of **TRISHA A. WIEHL** is hereby **REVOKED** the effective date of this Order.
2. **IT IS FURTHER ORDERED** that **TRISHA A. WIEHL** shall **CEASE** and **DESIST** from the sale, solicitation or negotiation of insurance and/or receiving compensation deriving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

IT IS SO ORDERED THIS 10th DAY OF September, 2018, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Ken Selzer, CPA
Commissioner of Insurance

BY:



Clark Shultz
Assistant Commissioner of Insurance

NOTICE AND OPPORTUNITY FOR HEARING

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

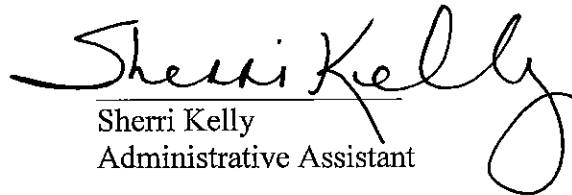
The undersigned hereby certifies that he served the above and foregoing Final Order on this 10th day of September, 2018, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Trisha A. Wiehl
P.O. Box 147
Smith Center, KS 66967-2918
Respondent

Richard Dietz
Dietz & Hardman Law Office
115 S First St.
Osborne, KS 67473
Attorney for Respondent

And hand delivered to:

Steven M. Lehwald
Staff Attorney
Kansas Insurance Department
420 SW 9th St.
Topeka, KS 66612
Attorney for KID


Sherri Kelly
Administrative Assistant