

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

**In the Matter of the Kansas
Insurance Excess Lines
Agent License of
JOHN M BUTTINE
NPN# 321646**

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Docket No. 84203

SUMMARY ORDER

(Pursuant to K.S.A. 40-4909, K.S.A. 40-246a, K.S.A. 40-246c, K.S.A. 77-501)

Pursuant to the authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A 40-4909, K.S.A. 40-246a and K.S.A. 40-246c, the Commissioner hereby revokes the excess lines agent license of Respondent **JOHN M BUTTINE** ("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 issued a Kansas Excess Lines agent license on May 1, 2006, and remains licensed to date.
2. Respondent's legal (residential) and mailing address of record is [REDACTED], New York, NY [REDACTED].
3. Respondent did not file the 2019 tax return.
4. The Kansas Insurance Department ("the Department") sent an order to Respondent on April 9, 2020, ordering the Respondent to file and pay double the amount of excess lines taxes collected for 2019, pursuant to K.S.A. 40-246c(c).
5. The Department sent a letter on May 14, 2020, reminding Respondent of the action taken and directing Respondent to respond.
6. The Department sent an email on June 19, 2020, advising the Respondent if action is not taken or a response not received by June 26, 2020, the Department would proceed with the revocation of the excess line license.
7. Respondent, to this date, has not responded or filed the required return.

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." K.S.A. 40-4909(a)

- Pursuant to K.S.A. 40-246a, "...The insurance commissioner shall collect double the amount of the tax provided by law from any insurance company, agent or nonresident agent receiving premiums in violation of the manner prescribed in this act, and may suspend or revoke the license of any company, agent or nonresident agent willfully failing to comply therewith. Any agent or nonresident agent who shall write business in any company not authorized to transact business in this state or as otherwise provided by law shall be personally liable for such tax."
- Pursuant to K.S.A. 40-246c(a), "On March 1 of each year, each licensed agent shall collect and pay to the commissioner a tax of 6% on the total gross premiums charged, less any return premiums, for surplus lines insurance transacted by the licensee pursuant to the license for insureds whose home state is this state."
- Pursuant to K.S.A. 40-246c(c), "The commissioner of insurance shall collect double the amount of tax herein provided from any licensee or other responsible individual as herein described who shall fail, refuse or neglect to transmit the required affidavit or statement or shall fail to pay the tax imposed by this section, to the commissioner within the period specified."

Policy Reasons

1. It is in the public interest that the license of an agent who has failed to file and pay double the amount of excess lines taxes collected for 2019, as required to hold an excess lines agent license, be revoked.

Conclusions of Law

1. The Commissioner has jurisdiction over **JOHN M BUTTINE** 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 Excess Lines agent license may be revoked because **JOHN M BUTTINE** has failed to comply with the Commissioner's previous order to file and pay double the amount of excess lines taxes collected for 2019.
3. Accordingly, the Commissioner concludes that sufficient grounds exist for the revocation of the Excess Lines agent license of **JOHN M BUTTINE**, pursuant to K.S.A. 40-4909(a), K.S.A. 40-246a and K.S.A. 40-246c(c).

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:


1. The Kansas Excess Lines agent license of **JOHN M BUTTINE** is hereby **REVOKED** the effective date of this Order.
2. **IT IS FURTHER ORDERED** that **JOHN M BUTTINE** 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 related to Excess Lines conducted after the effective date of this Order.

IT IS SO ORDERED THIS 10th DAY OF JULY, 2020, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Vicki Schmidt
Commissioner of Insurance

BY:


Justin L. McFarland
General Counsel

NOTICE AND OPPORTUNITY FOR HEARING

JOHN M BUTTINE, 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:

Justin L. McFarland, General Counsel
Kansas Insurance Department
1300 SW Arrowhead Rd.
Topeka, Kansas 66614

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:

Justin L. McFarland, General Counsel
Kansas Insurance Department
1300 SW Arrowhead Rd.
Topeka, Kansas 66614

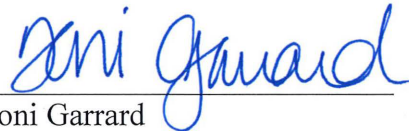
CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served the above and foregoing Summary Order on this 10th day of July 2020, by causing the same to be deposited in the United States Mail, certified first class postage prepaid, addressed to the following:

John M Buttine

[REDACTED]

New York, NY [REDACTED]



Toni Garrard
Senior Administrative Assistant