

**In the Matter of the Kansas
Nonresident Insurance Agent's
License of MELINDA M. HALL
NPN #8188222**

**In the Matter of the Kansas
Nonresident Insurance Agent's
License of KRISSIE D. HUTCHINS
NPN #7528379**

Docket No. 80688

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

The Presiding Officer called this matter for an evidentiary hearing on January 15, 2020. Krissie D. Hutchins (“Hutchins”) and Melinda M. Hall (“Hall”), collectively “Respondents,” appeared by and through their attorney William W. Sneed. The Kansas Insurance Department (the “Department”) appeared by and through its General Counsel, Justin L. McFarland. Respondents agreed to a combined hearing as the factual allegations against Respondents arise out of the same underlying circumstances. The Respondents did not dispute the facts alleged by the Department or the applicable law but requested an opportunity to present mitigating evidence and to request leniency from the Commissioner.

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Findings of Fact

1. Hutchins obtained a Kansas nonresident insurance agent license on May 3, 2018, and remains licensed to date. Hall obtained a Kansas nonresident insurance agent license on April 14, 2016, and remains licensed to date.
2. Respondents reside in the State of Missouri and each holds an individual insurance producer license with the Missouri Department of Commerce and Insurance ("Missouri Department" or "MDCI").
3. At all times relevant in this matter, the Respondents worked in Lee's Summit, Missouri.
4. Prior to the formal hearing each Respondent and the Department submitted Joint Stipulations of Fact and Law ("Joint Stipulations") to the Presiding Officer. The following stipulations of fact taken from the Joint Stipulations provide relevant background information.
 - a. Hutchins was hired by agent Gregory Olinger in 2008. In 2014, Respondent Hutchins was appointed as an agent for the Farmers Companies.
 - b. Hall was hired by agent Gregory Olinger in 2008. In 2013, Hall was appointed as an agent for the Farmers Companies.
 - c. On October 12, 2017, Farmers Insurance Group [Farmers], commenced an internal audit on various policies generated by the Olinger Agency.
 - d. Farmers' investigators met individually with agent Olinger and Respondents on December 12, 2017.
 - e. During the meeting[s], Respondent[s] admitted to submitting falsified college diplomas [they] had created to Farmers to support Engineer Affinity discounts. Respondent[s] would type the insured's name on an electronic version of a University of Missouri college diploma and then print and scan the document to the Farmers.
 - f. Farmers indicated that the diplomas submitted were Bachelor of Science degrees from the University of Missouri. Almost all of the submitted diplomas

had a conferment date of December 18, 2014, the average age of the insured at the allege time of conferment was 47 years old, and 13 insured were 55 years of age or older on the date of conferment.

g. Farmers was not able to confirm that any of the insureds were licensed through the Missouri or Kansas professional licensing agencies.

h. [Each] Respondent signed a statement on or around December 13, 2017, detailing the meeting she had with the Farmers investigator and the facts of her submitting false diplomas in order for customers to get a discount.

i. Respondent[s] did not prepare the statement[s], but [do] not controvert the facts contained therein pertaining to [their] actions.

j. Respondent[s] [were] terminated from employment on February 15, 2018.

k. Respondent[s] [were] terminated for cause, which should have triggered Farmers' obligation under K.S.A. 40-4913 to report the termination[s] to the Kansas Insurance Department within 30 days.

l. Farmers did not notify the Kansas Insurance Department of its termination of Respondent[s] until February 28, 2019, at which point it also notified the Missouri Department of [Commerce and Insurance].

m. Respondent[s] started [their] own agency in July 2018.

n. Respondent[s] [contend] that [their] covenant not to compete [with Farmers] expired on February 15, 2019.

o. On March 14, 2019, Farmers issued its audit report ["Report"], which it provided to the Kansas Insurance Department and the Missouri Department of Commerce and Insurance.

p. On April 16, 2019, the Kansas Insurance Department issued a summary order revoking Hall's nonresident insurance agent license.

q. On October 8, 2019, the Kansas Insurance Department issued a summary order revoking Hutchins' nonresident insurance agent license.

r. On October 11, 2019, Hutchins agreed to a Voluntary Forfeiture Agreement with the Missouri Department of Commerce and Insurance wherein, for purposes of the agreement only, Hutchins admitted that she made false or

fraudulent statements or representations on or relative to applications for policies, which is a violation of RSMo. Section 375.936 (7), and paid a fine of \$1,500.

s. In October 2019, Hall agreed to a Voluntary Forfeiture Agreement with the Missouri Department of Commerce and Insurance wherein, for purposes of the agreement only, Hall admitted that she made false or fraudulent statements or representations on or relative to applications for policies, which is a violation of RSMo. Section 375.936 (7), and paid a fine of \$1,500.

t. The Missouri Department of Commerce and Insurance did not otherwise suspend or revoke [either] Respondent[s'] Missouri insurance agent license[s], but did retain jurisdiction over the conduct in the event the department uses it to show a course of conduct, business practice, or such other series of similar violations, or for purposes of showing that later alleged acts are committed knowingly, intentionally, or in conscious disregard of the law.

5. Respondents filed timely requests for a hearing with the Kansas Department on its Summary Orders to revoke their non-resident insurance agent licenses.

6. During the formal hearing, the Department's Director of Producer Licensing ("Director") testified the Department received a notice from Farmers dated February 28, 2019, indicating the Respondent's appointments with various Farmers entities were cancelled effective February 21, 2018. The notice stated Hutchins and Hall "admitted to submitting falsified documents to support Affinity discounts on at least 31 policies."

7. The Director explained the Department had been notified by Farmers in February 2018 that the Respondent's appointments with Farmers entities were cancelled. Cancellation of appointments are common and occur for a variety of reasons. The Department learned the appointments were terminations for cause when it received the February 28, 2019, notice.

8. Upon receiving the notice, the Director requested a Department investigator contact Farmers to obtain additional information. Farmers provided the Report, which detailed its investigation into a number of policies where questionable college diplomas had been submitted by the Gregory Olinger agency in support of Engineer Affinity discounts ("Affinity Discounts"). In addition to the Report, Farmers provided the statements signed by the

Respondents on December 12, 2017, in which they admitted falsifying diplomas for customers to receive Affinity Discounts for individuals who are engineers. The Director did not contact the Respondents for additional information and did not believe the Department investigator did so.

9. The Director testified she is delegated responsibility from the Commissioner of Insurance for agent licensing matters, and has the discretion to determine sanctions for agent misconduct within the parameters established by applicable statutes.

10. The Director made a recommendation that the Respondents' licenses be revoked based on the conduct described in the information provided by Farmers, including the Report and the attached statements signed by Respondents. The Director testified that the Department looks at the nature and seriousness of the conduct when determining whether to revoke an agent's license. The Director advised that she believed revocation was warranted because the conduct by the Respondents constituted fraudulent insurance acts in violation of state insurance laws, and the conduct was relatively recent. She indicated the falsification of documents by an insurance agent is considered egregious conduct by the Department.

11. The Director acknowledged K.S.A. 40-4913 (a)(1) requires insurers to notify the Department of an agent's termination for cause within 30 days of the termination.

12. The Director indicated that had Farmers informed the Department of the termination for cause within the required time frame, she believed the investigation process would have been the same and a summary order proposing revocation would have been issued.

13. The Director testified that in performing her duties she follows guidance provided to her by the Commissioner of Insurance. The Director indicated there is not a policy for when revocation is recommended versus a monetary penalty assessed in lieu of revocation. Rather, the appropriate action for each matter is determined based on the specific facts involved and general guidance given by the Commissioner. The current Commissioner of Insurance took office in January 2019. Since that time the Director has followed the guidance provided by the current Commissioner on handling agent disciplinary matters.

14. The Respondents individually testified about their respective backgrounds and employment with the Olinger agency. Both admitted that they modified diplomas and submitted them to Farmers to allow customers to get Affinity Discounts. This was done when documentation was not received from the customer in a timely manner as there was a limited time to provide the required discount documentation to Farmers.

15. Respondents testified the Affinity Discounts benefitted the customers by allowing them to pay a slightly lower premium. Hall indicated the discount reduced a customer's premium between two and five percent. The Respondents were paid salaries and testified they did not financially benefit from submitting the falsified documents.

16. Hutchins testified that although Farmers received a lower premium from the customer, she believed the company benefitted by retaining the business. Without the discounts, the customers may have moved their business to another company.

17. Hall testified she was in charge of retention of business for the Olinger agency. Because of rate increases by Farmers, many clients were moving their business to other companies. She falsified documents for the Affinity Discounts in order to retain customers for the agency.

18. Respondents testified that they did not know it was wrong or illegal to falsify documents to allow customers to receive discounts.

19. After the termination of their employment in February 2018, the Respondents began to discuss the possibility of opening their own agency. They began researching insurance laws to learn about forming an agency, in the course of which they discovered K.S.A. 40-4913 which requires insurers to notify the Department of an agent's termination for cause within 30 days of the termination. Hutchins indicated she began to check the Department's producer licensing registry daily to see whether Farmers had reported their terminations for cause.

20. In July 2018, five months after their termination from Farmers, the Respondents opened an agency.

21. Because of the one-year non-compete agreement with Farmers, the Respondents did not solicit any Farmers customers until after February 15, 2019.

22. In late February 2019, Farmers notified the Department and the MDCI about Respondents' terminations for cause. This notification was sent over a year after their terminations were effective.

23. Other testimony was given about actions by Farmers against the Respondents. At or about the same time that Farmers sent the notices of termination for cause, it also sent Respondents a letter suggesting they were in violation of the non-compete provision, and ordering them to cease and desist from soliciting Farmers' customers. Respondents retained Missouri counsel to respond to Farmers and to also represent them in a licensing action commenced by the MDCI. According to Respondents, they did not receive further communications from Farmers.

24. Hutchins testified she asked for a hearing from the Department because the Summary Order did not tell "the whole story" of how Farmers had treated them or how its actions impacted the Respondents.

25. The Respondents testified that had Farmers notified the Department of their terminations for cause within the time frame required by K.S.A. 40-4913, and the Department proposed to revoke their licenses at that time, they would not have opened their agency and would have been spared the possibility of losing the money they had invested in the agency.

26. Respondents acknowledged they now understand that what they did was wrong. Both expressed remorse about those actions. Testimony was given that when they were confronted by Farmers, they offered to "make it right" by notifying the customers that they were not eligible for the discounts. Farmers did not have them notify the customers.

27. On cross-examination, Hutchins indicated she did not recall whether, during her research into starting an agency, she read K.S.A. 40-4909 regarding the Commissioner's authority to deny, suspend or revoke an agent's license for certain conduct.

28. On cross-examination, Hall acknowledged that as a licensed insurance agent she is responsible for knowing state laws regarding the conduct of insurance agents. She stated she did not know why she believed that submitting false documentation to insurers was allowed under Kansas insurance laws.

29. Respondents testified they currently had agency appointments with a number of insurance companies. They have not yet made those companies aware of the licensing actions taken against them by either the Kansas or Missouri departments. Respondents' counsel indicated his understanding that Respondents' Missouri counsel had undertaken responsibility for advising the insurance companies of the action taken against them by the MDCI.

30. Hall submitted 31 letters of support and Hutchins submitted 36 letters of support from clients, neighbors, community members, friends, their spouses, and other business owners.

31. Counsel for Respondents asked the Presiding Officer to take notice of two orders issued by the Department, one in 2017 and one in 2018, in which insurance agents were assessed monetary penalties in situations in which the agents were terminated for cause for falsification of insurance documents or similar violations of insurance laws. The 2017 order involves facts substantially similar to those present in this matter, but in that matter the Department assessed a monetary penalty in lieu of revocation pursuant to K.S.A. 40-4909(h).

32. Counsel for Respondents indicated that had Farmers notified the Department within the 30 days required by statute, Respondents would not have used their life savings to start their own agency. Counsel emphasized that the Respondents recognized the need for some sanction for their actions, but losing their licenses, which he argued would cause them to lose their investment in the agency and their livelihoods, was disproportionate to the wrongful conduct. He requested consideration be given to the letters of support sent for each Respondent. He reiterated that there is no statute or precedent *requiring* the Commissioner to revoke Respondents' licenses but rather the Commissioner has discretion in determining the appropriate sanction. He asked that the Commissioner exercise that discretion in a manner similar to action taken by the MDCI in assessing a monetary penalty but allowing the Respondents to retain their licenses.

33. Counsel for the Department noted that the current Commissioner is different than the one in office in 2017 and 2018 when the two orders referenced by Respondents' Counsel were issued. Counsel for the Department stated that Respondents admitted their conduct was fraudulent and violated Kansas insurance laws. Counsel noted that the Commissioner has the discretion to revoke an agent license if the agent's conduct is fraudulent or violates Kansas

insurance laws. Counsel asked the Presiding Officer to consider the egregious nature of Respondents' conduct and the recency of their actions, and to uphold the Department's revocation of the licenses.

Applicable Law

34. The Presiding Officer is the Assistant Commissioner of Insurance and acts on behalf of the Commissioner of Insurance as the agency head as provided in K.S.A. 77-547.

35. The Parties stipulated to the following "Conclusions of Law" in the Joint Stipulations, which also suffices to set forth the law applicable in this matter.

a. K.S.A. 40-4909(a) provides, in part, that the commissioner may revoke an agent license, 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 or regulation promulgated thereunder; (B) any subpoena or order of the commissioner; (C) any insurance law or regulation of another state; or (D) any subpoena or order issued by the regulatory official for insurance in another state.

(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.

b. In lieu of taking any action under K.S.A. 40-4909(a), the Commissioner may censure the person or issue a penalty of up to \$2,500. K.S.A. 40-4909(h).

c. A fraudulent insurance act is defined in K.S.A. 40-2,118(a) to mean:

[A]n 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.

36. In addition, under K.S.A., 40-4909(b) the Commissioner may revoke an insurance agent license if the commissioner finds that the insurable interests of the public are not properly served under such license.

37. Protection of the public has long been recognized as an important function of the Commissioner. See, *Blue Cross and Blue Shield of Kansas, Inc. v. Praeger*, 276 Kan. 232, 248 (citing *Mutual Casualty Co. v. Hobbs*, 149 Kan. 625, 633, 88 P.2d. 1006 [1939]).

Policy Reasons

38. The Commissioner of Insurance is charged with protecting the insurable interests of the public and insurance consumers in Kansas.

39. It is in the public interest that the license of an agent who has committed fraudulent insurance acts be revoked.

Findings of Fact and Conclusions of Law

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

41. Pursuant to K.S.A. 77-526(a), 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.

42. In the Joint Stipulations, Respondents each stated as a "Conclusion of Law" that she had "committed fraudulent acts each and every time she submitted false degree documentation to Farmers" and that each had "violated the insurance laws of the states of Kansas and Missouri." The Commissioner concurs in this conclusion.

43. The Commissioner has considered the factors most favorable to Respondents. These include that they testified they did not know falsifying documents was wrong and would not have done it had they known. Respondents now understand their actions were wrong and are very remorseful. The Commissioner also accepts that Respondents did not personally benefit, at least in a direct financial sense, from their conduct, and that Respondents offered to contact customers to correct their mistakes. The Respondents provided a plethora of letters attesting to their good character and reputations. The Commissioner recognizes that the MDIC, which regulates insurance in the state in which the Respondents hold Resident Producer Insurance Licenses, assessed monetary penalties against the Respondents in lieu of revoking or suspending their licenses.

44. The Presiding Officer believes it is beneficial to address these factors as well as other arguments made by Respondents' counsel in requesting that Respondents' licenses not be revoked.

45. Letters of Support:

a. The Presiding Officer does not place great weight on the letters of support sent on Respondents' behalf. Nearly all are couched as "character references" or "letters of recommendation." Many simply praise the Respondents for their service to their insurance customers and their work in their community, schools and churches. All are addressed "To Whom It May Concern," with the exception of the letter from Hutchins' spouse who addressed his letter to the Commissioner. Almost without exception the letters characterize the Respondents as "ethical," "trustworthy," "honest," having the "highest integrity" and having "high moral character." Only the letters submitted by the Respondents' spouses referenced this licensing action with both emphasizing that Respondents' conduct was contrary to their true character and natures, and that license revocation was too severe of a punishment for what was characterized as "lapses in judgment."

b. Undoubtedly Respondents are well-liked in their community and respected by the writers of the letters of support. However, the letters are suspicious in how they are addressed, characterized as "references" or "recommendations," and in the use of

strikingly similar wording attesting very specifically to honesty, trustworthiness and integrity. There is no evidence, and thus it seems doubtful, that any of the authors of the letters, other than the Respondents' spouses, knew about the Department's order proposing to revoke the Respondents' licenses, or the conduct underlying that proposal. For example, only one letter hinted at a possible issue by saying the writer did not believe Hutchins would have "done anything to [] hurt her former employer. She was honest and sincere in making it known that she had to move forward with certain stipulations with regards to her new venture." It further stated "I believe it to be an unfortunate circumstance that she is having to need letters of character testament in regards to the accusations that another party is bringing against her personally." It should be noted that "another party", i.e., Farmers, is not bringing accusations against the Respondents. Rather, this matter involves the exercise of the Commissioner's statutory authority, *nee* duty, to determine the appropriate licensing status of insurance agents who have admitted to committing violations of Kansas insurance laws. The tenor of the letters suggests the Respondents were not forthright in explaining to the authors why the letters were sought.

c. Having carefully considered the content of the dozens of letters submitted in support of Respondent, the Commissioner finds that the letters are not helpful or persuasive in this matter in that they do not address the true nature of the situation involving the Respondents and moreover do not provide reasoning or persuasive arguments as to why an action other than revocation is warranted.

46. Orders issued in 2017 and 2018:

a. The current Commissioner recognizes that prior Insurance Commissioners and their administrations have assessed monetary penalties in lieu of revocation to agents who had been terminated for cause for violating Kansas insurance laws and regulations. However, pursuant to K.S.A. 77-415(b)(2)(A) an adjudication by the Department does not establish precedent in subsequent adjudications involving third parties unless the order is designated by the Department as precedent. The 2017 and 2018 orders

presented as evidence by Respondents were not designated by the Department as precedent so are not binding in this situation.

b. Regardless, a review of all orders involving agent licensing issues in 2018 indicated that in the vast majority of cases in which an agent was terminated for cause, the Department revoked the agent's license. Payment of a monetary penalty in lieu of revocation occurred infrequently.

c. The Commissioner has broad authority to administer, enforce and interpret laws applicable to licensing agents to sell insurance in this state. This authority includes the ability to reconsider, modify, or depart from policies, procedures or determinations made by prior administrations, so long as the action is consistent with applicable statutes.

d. It is not disputed that the Commissioner has discretion under applicable statutes to determine the appropriate discipline for Respondents. The Commissioner is not privy to reasoning used by prior administrations in deciding, in some instances, to assess a monetary fine for committing fraudulent insurance acts rather than revoking the agent's license. Regardless of the reasoning, she is not bound by those actions. The Commissioner believes her responsibility for protecting the insurable interests of the public and insurance consumers in Kansas is paramount in situations such as this.

47. 2019 Producer Licensing Orders:

a. In a similar vein, during the formal hearing Respondents' counsel requested the Presiding Officer take judicial notice of all orders involving revocation of producer licenses issued by the Department in 2019. The Presiding Officer has reviewed each one of such orders.

b. As Respondents' counsel indicated, many orders revoking agent licenses involved some criminal conduct by the agent or revocation of the license in the agent's state of domicile. Others resulted from other violations of law, such as failure to pay licensing fees, providing inaccurate or false information on their original application for a license, or acting outside of the area in which they were licensed.

c. Six orders involved revocation of an agent's license upon notification from a company of termination for cause. Reasons for those terminations included failure to promptly remit premium payments to the insurer, pocketing premiums payments and forging documents to conceal those acts, inappropriate or dishonest practices in soliciting insurance or replacing insurance coverage, and keeping policies in force without collecting premiums.

d. Respondents' counsel suggested these orders revoking licenses for termination for cause should not guide the Commissioner's decision in this case because agents involved in those matters had not requested hearings to challenge the license revocation. While a summary order carries less persuasive weight than a reasoned decision issued after an administrative hearing, Respondents' argument is not persuasive. It is clear that in both 2018 and 2019 the Department consistently revoked agent licenses after receiving notification that an agent's appointment was terminated for cause based on wrongful acts. It is speculative to suggest that in those situations the Department's proposal to revoke the license would have been overturned and a monetary penalty assessed instead had the agents merely requested a hearing to challenge the proposed revocation.

e. The 2019 orders reviewed by the Hearing Officer do not provide any probative value in this matter.

48. Action by MDCI.

a. The Commissioner acknowledges that the Respondents' home state of Missouri opted to require payments by each of \$1,500.00 for knowingly "making false or fraudulent statements or recommendation on or relative to applications for policies," in violation Missouri law.

b. The Commissioner is not privy to discussions or negotiations between Respondents and MDCI which would shed light on why MDCI resolved a violation of Missouri insurance laws with a monetary penalty in lieu of license revocation. However, another state insurance department's action is not binding on this Department. Each state has the authority to adopt its own laws, principles, regulations, standards and practices

with regard to the appropriate action to take against an agent for committing fraudulent insurance acts.

c. As indicated above, the Commissioner has consistently revoked agent licenses in situations involving terminations for cause due to violations of insurance laws, including dishonest or fraudulent conduct. No orders have been entered since the current Commissioner took office where a monetary penalty was assessed in lieu of revocation of a license due to termination for cause. She is not persuaded to assess a monetary penalty against Respondents simply because that is the course of action taken by MDCI.

49. Farmers' failure to timely notify the Department.

a. K.S.A. 40-4913 (b)(2) requires an insurer to notify the Department whenever it terminates a business relationship with the agent (such as cancellation of an appointment). Farmers provided this notice to the Department in February 2018. However, section (a)(1) of the statute requires insurers to notify the Department of an agent's termination for cause within 30 days of the termination. This Farmers did not do; rather it notified the Department of the termination for cause more than a year later. Respondents suggest that because Farmers failed to comply with the 30-day time frame for notifying the Department of their terminations for cause, that it is not fair for the Department to revoke their licenses based on events which occurred a year prior and after they had moved forward with opening an agency in July 2018.

b. The Respondents' position is essentially that the Department should refrain from taking action against the Respondents' licenses not based on any action or inaction by the Department, but due to the inaction of Farmers. K.S.A. 40-4913(g) provides remedies the Commissioner can take *against an insurance entity* which fails to comply with the requirements of K.S.A. 40-4913. It does not state or imply that the Commissioner is estopped from taking action against a licensed agent under K.S.A. 40-4909 because an insurer did not comply with the time requirements of K.S.A. 40-4913(a)(1). Such a position is contrary to K.S.A. 40-4909 (a) which enumerates specific reasons for revocation of an agent's license (including for violation of any Kansas

insurance law, for committing any fraudulent or dishonest practice, or for exhibiting untrustworthiness in the conduct of insurance). In addition, it is contrary to section (b) of K.S.A. 40-4909 which provides “the commissioner may suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds . . . the insurable interests of the public are not properly served under such license.”

c. The Commissioner understands that Respondents believe they may suffer financial consequences due to Farmers’ failure to timely act. However, it is not incumbent on the Commissioner to refrain from disciplining Respondents based on the actions (or inactions) of Farmers. Furthermore, the Commissioner does not believe it appropriate to abdicate her statutory responsibility to protect the insurable interests of the public solely because she learned of the Respondents’ wrongful acts more than 30 days after the Respondents were terminated for cause. If Respondents believe they have suffered damages as a result of Farmers’ delay in notification to the Department, their opportunity for redress lies in another forum, not this disciplinary proceeding.

50. Other Actions by Farmers.

a. In seeking leniency from the Commissioner, representations were made about other alleged actions by Farmers in its dealings with Respondents. Respondents related how written statements were presented to them to sign without the benefit of being able to discuss the statements with family or counsel, how they were led to believe that signing the statements would end the matter and no further action would be taken against them, how they were released from employment two months later with no notice or explanation, how they received letters from Farmers after their non-compete agreement expired demanding they cease soliciting Farmers’ clients, and how after they hired counsel to respond to Farmers the company then notified the Kansas and Missouri Department of the Respondents’ terminations for cause.

b. It is not necessary for the Commissioner to determine whether Farmers’ actions were appropriate. With regard to this matter, the admission by each Respondent that she “committed fraudulent acts each and every time she submitted false degree documentation to Farmers” and that each had “violated the insurance laws of the states

of Kansas and Missouri,” renders moot any complaints about the actions of Farmers. Again, any alleged improper actions by Farmers against Respondents is a matter between those parties. It is not appropriate for the Commissioner to fail to take action to protect insurance consumers in this state because of allegations that Farmers may have had unclean hands in its dealings with Respondents.

51. The Commissioner has considered the factors that weigh most heavily against Respondents, specifically that Respondents admitted to committing fraudulent insurance acts in violation of Kansas insurance laws, that as licensed insurance agents they are responsible for knowing applicable insurance laws, that their conduct was not isolated but involved a pattern of illegal behavior and questionable judgement, that this conduct occurred fairly recently, and that Respondents had their appointments with Farmers terminated as a result.

52. Most problematic is the testimony of Respondents that they were aware that Farmers was required to report their terminations for cause to the Department, and checked the Department’s website “daily” to see if that had occurred. It is unclear whether the Respondents checked publicly available agent information or searched their own records through the producer desktop platform. The information that is publicly available includes whether an agent’s license is active, if the agent has a resident or non-resident license, the effective date of the license, the lines the agent is qualified to sell, the agencies the agent is affiliated with, and companies with which an agent is appointed. It will also show prior or cancelled company appointments. The Producer Desktop application affords an agent additional options, such as updating addresses, telephone numbers, status of continuing education courses, and the ability to print their license certificate. The Respondents indicated they waited five months to see whether Farmers reported their terminations for cause. When that did not occur, they proceeded to open their own agency.

53. Respondents made unfortunate assumptions when they believed by checking the Department website daily they would know whether Farmers had reported their terminations for cause. First, they wrongly assumed that information about a termination for cause would be reported somewhere on either the publicly available information or on the producer desktop. While they would have seen that their appointments with Farmers-affiliated companies were

cancelled as of February 21, 2018, there is no indication on the appointments page or elsewhere as to whether an appointment cancellation is “for cause.” Rather, as indicated by the Director of Producer Licensing, reports of terminations for cause are investigated by the Department. The investigations take varying amounts of time depending on the facts involved. As with the Respondents, when the Department verifies an agent violated insurance laws or otherwise acted inappropriately, it issues a summary order proposing to revoke the agent’s license. These are not considered final orders (which would be posted on the Department website) until either a Respondent did not request a hearing within 15 days, or after a final order is issued following a hearing. In short, even had Farmers timely notified the Department of the terminations for cause the Respondents would not have found an indication of that on the Department’s website during the time in question.

54. The Respondents also wrongly assumed that if the terminations for cause were not reported timely by Farmers then they were free and clear of the possibility of any action being taken against their licenses. However, they testified they knew that as licensed insurance agents they had a responsibility to know laws and regulations governing agent conduct and licensing. In finding K.S.A. 40-4913 in their research, they wrongly, and perhaps somewhat conveniently, assumed that Farmer’s failure to notify the Department within 30 days of their terminations for cause somehow precluded the Department from taking action against them. It’s unfortunate that Respondents did not also review K.S.A. 40-4909. If they had, they may have seen that K.S.A. 40-4909 does not restrict the Commissioner from taking action against an agent’s license merely because the acts in violation of K.S.A. 40-4909 were not timely reported to the Commissioner by an insurer pursuant to K.S.A.40-4913(a)(1).

55. The Respondents bear some responsibility for creating the situation in which they find themselves. As detailed above, they placed undue reliance upon Farmer’s failure to timely report their terminations for cause under K.S.A. 40-4913(a)(1) and made incorrect assumptions about information reported on the Department’s website. While Respondents have admitted to their wrongdoing, they continue to insist that wrongdoing should be overlooked because of the actions of others; namely Farmers in the manner in which it had Respondents sign their statements, the way in which they were terminated, and the failure of Farmers to timely notify the Department of the terminations for cause. If the Respondents had been truly remorseful

for their actions, or concerned about the affect it might have on their licenses, it is difficult to understand why they didn't personally contact the Department or at least have a representative such as legal counsel contact the Department about their situation. That course of action would have demonstrated the Respondents' desire to proceed in an honest and transparent direction and to ensure they had taken steps to address any potential licensing issues prior to opening an agency.

56. Respondents also think their conduct should be overlooked because they may lose their livelihoods and suffer significant adverse financial consequences if their Kansas licenses are revoked. The Commissioner notes that the Respondents continue to have active licenses in Missouri, they live in Missouri, and their principal place of business is in Lee's Summit, Missouri. The vast majority of the letters of support were from people who live or have businesses in Missouri. The Commissioner believes revocation of the Respondents' Kansas licenses is likely to have a less dire effect on the Respondents than suggested.

57. Of paramount important to the Commissioner is her duty to protect Kansas consumers from unscrupulous agents. The Respondents' conduct was not minor or isolated, but was egregious. Insufficient time has elapsed from when the fraudulent insurance acts were committed by Respondents to provide the Commissioner with some assurance that they would not engage in similar conduct in the future. Their actions since being terminated by Farmers have not served to help their cause.

DECISION

58. The Commissioner has jurisdiction over **KRISSIE D. HUTCHINS** and **MELINDA M. HALL** as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

59. The Commissioner finds that Respondents' Kansas license may be revoked pursuant to K.S.A. 40-4909(a) because **KRISSIE D. HUTCHINS** and **MELINDA M. HALL** falsified documents and committed fraudulent insurance acts.

60. The Commissioner finds, pursuant to K.S.A. 40-4909(b), that the interests of the public and insurance consumers in Kansas are not properly served by allowing agents who falsify insurance documents and commit fraudulent insurance acts to remain licensed in Kansas.

61. Accordingly, the Commissioner concludes that sufficient grounds exist for the revocation of the insurance agent's licenses of **KRISSIE D. HUTCHINS** and **MELINDA M. HALL**, pursuant to K.S.A. 40-4909(a) and (b).

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

62. The Kansas nonresident insurance agent's license of **KRISSIE D. HUTCHINS** is hereby **REVOKED** as of the effective date of this Order.

63. The Kansas nonresident insurance agent's license of **MELINDA M. HALL** is hereby **REVOKED** as of the effective date of this Order.

64. IT IS FURTHER ORDERED that **KRISSIE D. HUTCHINS** and **MELINDA M. HALL** shall **CEASE** and **DESIST** from the sale, solicitation or negotiation of insurance in Kansas and/or receiving compensation derived from the sale, solicitation or negotiation of insurance conducted in Kansas after the effective date of this Order.

IT IS SO ORDERED THIS 12th DAY OF MARCH 2020, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



VICKI SCHMIDT
COMMISSIONER OF INSURANCE

BY: Barbara W. Rankin
Barbara W. Rankin
Assistant Commissioner
Presiding Officer

NOTICE

Pursuant to K.S.A. 77-601 *et seq.*, Applicant is entitled to judicial review of this Final Order. The petition for judicial review must be filed within thirty (30) days of service of this Final Order (plus three [3] days for service by mail pursuant to K.S.A. 77-531). In the event Applicant 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:

Justin L. McFarland, General Counsel
Kansas Insurance Department
1300 SW Arrowhead Road
Topeka, KS 66604

CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the above-and foregoing Final Order upon Applicant by causing a copy of the same to be deposited in the United States mail, first class postage prepaid, on the 16th day of March 2020, addressed to the following:

Krissie D. Hutchins

[REDACTED]

Respondent

and

Melinda M. Hall

[REDACTED]

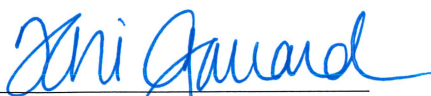
Respondent

and

William W. Sneed, JD.
Sneed Law Firm
825 S. Kansas Avenue
Topeka, KS 66612
Attorney for Respondents

and hand-delivered to the following:

Justin L. McFarland
General Counsel
Kansas Insurance Department
1300 SW Arrowhead Road Topeka, KS 66604


Toni Garrard
Senior Administrative Assistant