

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

In the Matter of the Kansas)	
Resident Agent's License)	Docket No. 1881-RA
of JEFFREY J. KULICK)	

CONSENT ORDER

Jeffrey J. Kulick ("Kulick") wishes to resolve this matter without formal adjudicative proceedings by entering into this Consent Order. The Commissioner of Insurance ("Commissioner") hereby makes the following findings of fact, conclusions of law and order, to-wit:

Findings of Fact

1. Records maintained by the Kansas Insurance Department ("KID") indicate that Kulick is a resident of the State of Kansas, and has a current mailing address of 5621 S.W. 36th, Topeka, Kansas 66614, and that he is licensed to transact the business of insurance as a resident insurance agent in the State of Kansas.
2. The Commissioner has jurisdiction over the subject matter of this proceeding and this proceeding is held in the public interest.
3. On or about August 2, 1995, Kulick made a sales call at 1401 Washburn, Topeka, Kansas for the purpose of soliciting a health insurance policy to Elsie M. Perryman ("Perryman") that would replace her current policy.
4. Kulick misrepresented to Perryman, who is eighty-eight (88) years of age, that Perryman's current health insurance policy, a Blue Cross & Blue Shield ("BCBS")

policy referred to as “Plan 65”, was being “phased out” by BCBS, and that the policy Kulick was selling was “better” than Plan 65.

5. In fact, BCBS is not, nor does it intend to “phase out” Plan 65.

6. Based on Kulick’s misrepresentations, and because Kulick “practically forced [Perryman] to purchase the policy,” Kulick induced Perryman to write a check to Kulick as a premium payment for the new policy.

7. On or about September 5, 1995, Perryman stated to KID that she had no intention of canceling Plan 65, that she wanted her money back, and that she did not want to see Kulick again.

8. That on or about the week of February 25, 1996, Kulick met with Milton Kaiser (“Kaiser”) of Durham, Kansas for the purpose of soliciting a Medicare Supplement insurance policy.

9. Kaiser was then a Bankers Life and Casualty Company (“Bankers Life”) Medicare Supplement policyholder.

10. During Kulick’s sales presentation to Kaiser, Kulick stated that Bankers Life was having financial difficulties, had dropped to a very low financial rating, and needed to be “watched.”

11. In support of his misrepresentations, Kulick produced a “watch list,” containing the name of Bankers Life, which he showed to Kaiser.

12. Kulick further misrepresented to Kaiser that Bankers Life was withdrawing from the Medicare Supplement business.

13. Kulick made the misrepresentations described herein for the purpose of inducing Kaiser to cancel his current policy and purchase Kulick’s policy.

14. Notwithstanding such misrepresentations, Kulick was unsuccessful in his attempts to induce Kaiser to change policies.

15. Kulick then became angry with Kaiser and left the meeting. As he drove away in his vehicle, Kulick angrily “spun his tires.”

16. That on or about May 22, 1996, Kulick met with Glee and Angeline Anderson (“the Andersons”) of Hope, Kansas, for the purpose of soliciting a Medicare Supplement insurance policy.

17. The Andersons were then BCBS Medicare Supplement policyholders.

18. As an inducement to cancel their BCBS policies and purchase the policies he was soliciting, Kulick misrepresented to the Andersons that his policies would pay 10% of the cost of all prescription drugs, and that “very soon” such policies would pay an even higher percentage.

19. Kulick also misrepresented that if the Andersons purchased his policies, Kulick would immediately mail to them a prescription card entitling them to the prescription drug discount.

20. Based on these and other misrepresentations, Kulick induced the Andersons to purchase the policies he was soliciting.

21. After the Andersons received their policies on or about June 26, 1996, they contacted the insurance company to cancel such policies and request a refund.

22. Subsequently, Angeline Anderson received “a very angry telephone call” from Kulick, who ended the call by hanging up on Glee Anderson.

Conclusions of Law

23. K.S.A. 40-242 provides in relevant part:

(a) The commissioner of insurance may impose a penalty prescribed by subsection (e) or revoke or suspend the license of any broker or agent in the event that investigation by the commissioner discloses that:...

(2) the holder of such license had misrepresented the provisions, terms and conditions contained in any contract of insurance;...

(5) the holder of such license had made any misleading representations or incomplete comparisons of policies to any person for the purposes of inducing or tending to induce such persons to lapse, forfeit or surrender such person's insurance then in force;...

(6) the interests of the insurer or the insurable interests of the public are not properly served under such license.

(e) In lieu of revocation or suspension of the agent's or broker's license, 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 unless the agent or broker knew or reasonably should have known the act could give rise to disciplinary action under subsection (a). If the agent or broker knew or reasonably should have known the act could give rise to disciplinary proceedings as aforementioned, 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.

24. K.S.A. 1994 Supp. 40-2404 provides in relevant part:

The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(1) Misrepresentations and false advertising of insurance policies. Making, issuing, circulating or causing to be made, issued or circulated, any estimate, illustration, circular, statement, sales presentation, omission or comparison which:...

- (d) is misleading or is a misrepresentation as to the financial condition of any person, or as to the legal reserve system upon which any life insurer operates;...
 - (f) is a misrepresentation for the purpose of inducing or tending to induce the lapse, forfeiture, exchange, conversion or surrender of any insurance policy;
- (2) False information and advertising generally. Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, misrepresentation or statement with respect to the business of insurance or with respect to any person in the conduct of such person's insurance business, which is untrue, deceptive or misleading.
- (3) Defamation. Making, publishing, disseminating or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of any person, and which is calculated to injure such person.

25. Based upon the information contained in paragraphs 3 through 7 above, it appears that Jeffrey J. Kulick violated K.S.A. 40-242(a)(2), (5), and (7); and K.S.A. 1994 Supp. 40-2404(1)(d) and (f), (2) and (3).

26. Based upon the information contained in paragraphs 8 through 15 above, it appears that Jeffrey J. Kulick violated K.S.A. 40-242(a)(2), (5) and (7); and K.S.A. 1994 Supp. 40-2404(1)(d) and (f), (2) and (3).

27. Based upon the information contained in paragraphs 16 through 22 above, it appears that Jeffrey J. Kulick violated K.S.A. 40-242(a)(2), (5) and (7); and K.S.A. 1994 Supp. 40-2404(1)(d) and (f), (2) and (3).

28. Based upon the information contained in paragraphs 3 through 7 above, it appears that sufficient evidence exists for a \$750 penalty against Jeffrey J. Kulick for his actions in soliciting a health insurance policy to Elsie M. Perryman pursuant to K.S.A. 40-242, in accordance with the procedures set forth in the Kansas Administrative Act, K.S.A. 77-501, et seq., as amended.

29. Based upon the information contained in paragraphs 8 through 15 above, it appears that sufficient evidence exists for a \$750 penalty against Jeffrey J. Kulick for his actions in soliciting a Medicare Supplement insurance policy to Milton Kaiser pursuant to K.S.A. 40-242, in accordance with the procedures set forth in the Kansas Administrative Act, K.S.A. 77-501, et seq., as amended.

30. Based upon the information contained in paragraphs 16 through 22 above, it appears that sufficient evidence exists for a \$750 penalty against Jeffrey J. Kulick for his actions in soliciting a Medicare Supplement insurance policy to Glee and Angeline Anderson pursuant to K.S.A. 40-242, in accordance with the procedures set forth in the Kansas Administrative Act, K.S.A. 77-501, et seq., as amended.

31. Kulick admits to the allegations set forth herein this order as described above.

32. For the purposes of this Consent Order, Kulick waives his right to a formal adjudicative proceeding and notice thereof and voluntarily consents to the following order of the Commissioner of Insurance.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

1. Jeffrey J. Kulick shall cease and desist from the violations listed herein.
2. Jeffrey J. Kulick shall remit to the Commissioner of Insurance an administrative penalty pursuant to K.S.A. 40-242(e)(2) in the amount of two thousand two hundred fifty dollars (\$2,250.00) to be paid within 1 (one) year from the date of this order.

IT IS SO ORDERED THIS 27th DAY OF OCTOBER, 1999 IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/ Kathleen Sebelius
Kathleen Sebelius
Commissioner of Insurance

BY:

/s/ Kathy Greenlee
Kathy Greenlee
General Counsel

/s/ Jeffrey J. Kulick
Jeffrey J. Kulick

APPROVED AND SUBMITTED BY:

/s/ JaLynn Copp
JaLynn Copp
Attorney for Petitioner
Kansas Insurance Department