

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

In the Matter of the Kansas Nonresident	)	
Insurance Agent's License of	)	Docket No. 3048-CO
BRET MATTHEW BOEGER	)	

**CONSENT ORDER**

Bret Matthew Boeger ("Boeger") 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 Boeger is a resident of the State of Missouri, and has a current mailing address of One Ward Parkway, Suite 350, Kansas City, Missouri, 64112, and that he is licensed to transact the business of insurance as a nonresident insurance agent in the State of Kansas.

2. Accordingly, the Commissioner has jurisdiction over Boeger and the subject matter of this proceeding, and such proceeding is held in the public interest.

3. On December 21, 1989, Boeger submitted an application for a Kansas insurance agent's license. In response to Question #5 on the application, which states, "Have you ever been convicted of or plead guilty or nolo contendere to any misdemeanor or felony?", he answered "Yes." Pursuant to that affirmative answer, Boeger disclosed that he had pled guilty to the charge of conspiracy to sell cocaine and his sentence.

4. On January 17, 1990, due to Boeger's previous conviction, the KID denied his application for an insurance agent's license. He requested a hearing to reconsider the denial of his application.

5. On March 19, 1990, the hearing officer granted Boeger's application for a Kansas insurance agent's license.

### **FLORIDA**

6. On May 17, 1996, Boeger filed with the Florida Insurance Department an application for licensure as a nonresident life and health agent. On December 9, 1997, Boeger was issued a license as a nonresident life and health agent.

7. On March 1, 1999, the Florida Insurance Department filed an administrative complaint against Boeger alleging that he made a material misrepresentation on his application for licensure by failing to divulge that he pled guilty to and was convicted of conspiracy to distribute a controlled substance in 1985. Boeger contended that such misrepresentation was made because he misread the application time frame in regards to prior felony conviction history.

8. On June 18, 1999, based on a Consent Order, Boeger's license as an insurance agent in the State of Florida was suspended for a period of six (6) months.

9. On April 28, 2000, Boeger's license was reinstated upon his request.

### **GEORGIA**

10. On license applications submitted to the Agent's Licensing Section of the Georgia Insurance Department in 1996, 1997 and 1998, Boeger failed to disclose his felony conviction in 1985 of conspiracy to distribute cocaine. At the time of the discovery (because of the Florida action), he held a nonresident insurance agent's license for life, accident, sickness and variable life and annuity lines.

11. On April 3, 2001, based on a Consent Order, Boeger's nonresident license was suspended for a period of three (3) months and he was fined \$900.00.

12. On July 3, 2001, Boeger's license was reinstated.

## **MISSOURI**

13. On or about December 21, 2000, the Missouri Insurance Department fined Boeger \$200.00 for obtaining a license by misrepresenting or making a material misstatement in the application for license and by demonstrating a lack of competence for failing to disclose a conviction.

14. On or about September 25, 2001, Boeger requested a letter of consent pursuant to 18 U.S.C. §1033 from the KID. Within that application, he disclosed the actions taken against his licenses in Florida, Georgia and Missouri.

## **Conclusions of Law**

15. K.A.R. 40-7-9 provides, in relevant part:

"Each person licensed in this state as an insurance agent shall, within 30 days of occurrence, report to the commissioner of insurance:

(a) Each disciplinary action on the agent's license or licenses by the insurance regulatory agency of any other state or territory of the United States;..."

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

"(a) The commissioner of insurance may impose a penalty prescribed by subsection (e)...in the event that investigation by the commissioner discloses that:

(7) 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...license, the commissioner may:...

(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...knew or reasonably should have known the act could give rise to disciplinary action under subsection (a). If the agent...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.”

17. Based upon the information contained in paragraphs 6 through 14 above, it appears that Bret M. Boeger has failed or refused to notify the KID within the specified time period of disciplinary action taken in other states against his insurance licenses in those states, in violation of K.A.R. 40-7-9(a).

18. Based upon the information contained in paragraphs 6 through 14 above, it appears that Bret M. Boeger failed or refused to self-report disciplinary actions taken in other states against his insurance licenses in those states which was contrary to the interests of the insurer or the insurable interests of the public, in violation of K.S.A. 40-242(7).

19. Based upon the information contained in paragraphs 6 through 14 above, it appears that sufficient evidence exists for a \$3,000 administrative penalty against Bret M. Boeger for his failure or refusal to self-report disciplinary action taken in other states against his insurance licenses in those states 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.

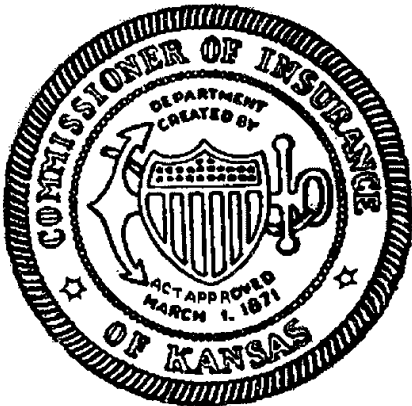
20. Bret M. Boeger admits to the allegations set forth herein this order as described above.

21. For the purposes of this Consent Order, Bret M. Boeger waives the 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. Bret M. Boeger shall cease and desist from the violations listed herein.
2. Bret M. Boeger shall remit to the Commissioner of Insurance an administrative penalty pursuant to K.S.A. 40-242 (e)(2) in the amount of three thousand dollars (\$3,000) forthwith.

**IT IS SO ORDERED THIS \_\_1st\_\_ DAY OF MAY, 2002 IN THE CITY OF  
TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



\_\_\_\_\_/s/ Kathleen Sebelius\_\_\_\_\_  
Kathleen Sebelius  
Commissioner of Insurance  
BY:

\_\_\_\_\_/s/ Kathy J. Greenlee\_\_\_\_\_  
Kathy J. Greenlee  
General Counsel

\_\_\_\_\_/s/ Bret M. Boeger\_\_\_\_\_  
Bret M. Boeger

APPROVED AND SUBMITTED BY:

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