

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

FINAL ORDER

Effective: 12/01/03

In the Matter of the Kansas Nonresident)	
Insurance Agent's License of)	Docket No. 3233-SO
NOEL S. ROSE)	

SUMMARY ORDER

(Pursuant to K.S.A. 2002 Supp. 40-4909 and K.S.A. 77-537)

Pursuant to authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 2002 Supp. 40-4909, the Commissioner hereby revokes the nonresident agent's license of Noel S. Rose ("Rose") by way of Summary Order as provided by K.S.A. 77-537.

Findings of Fact

The Commissioner has been shown the following facts:

1. Records maintained by the Kansas Insurance Department ("KID") indicate that Rose is licensed as a nonresident agent to transact the business of insurance in the State of Kansas, and has been so licensed since May 13, 2002. KID records further indicate a legal and mailing address of 336 19th Avenue, Yuma, Arizona 84364.

2. Rose submitted a "clean" application, denying criminal convictions or pending charges, dated April 21, 2002.

3. The application requires the applicant's certification that "all of the information submitted in this application and attachments is true and complete," that the applicant is aware that submitting false information or omitting material information is grounds for license revocation.

4. The National Association of Insurance Commissioners ("NAIC") Regulatory Information Retrieval System ("RIRS") database reflects the following information: Rose was denied a license in Idaho for failure to make required disclosure on his license application and

failure to respond; his California license was revoked for failure to report other state's action; and his Florida insurance agent's license was revoked, effective August 13, 2003, as a result of criminal history and failure to make required disclosure on his license application.

5. By letter of September 15, 2003, the KID attempted to contact Rose for an explanation of the disciplinary actions.

6. By letter of October 6, 2003, the KID again requested the details of the disciplinary action and set a deadline for reply of October 20, 2003.

7. To date, the KID has not received notice from Rose of any criminal convictions, disciplinary actions, or a change of address, nor has KID received returned mail.

Applicable Law

8. K.S.A. 2002 Supp. 40-4909(a) provides, in relevant part:

“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 (1) Provided incorrect, misleading, incomplete or untrue information in the license application. (2) Violated: (A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder . . . (3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud. . . . (6) Been convicted of a misdemeanor or felony. . . . (9) Had an insurance agent license, or its equivalent, denied, suspended or revoked in any other state, district or territory.” K.S.A. 2002 Supp. 40-4909(a).

9. Administrative regulations require that a person licensed in this state as an insurance agent shall, within 30 days of the occurrence, report enumerated events to the Commissioner. Among these events are disciplinary action against the agent's license by the insurance regulatory official of any other state or territory, conviction of a misdemeanor or felony, and a change of address. K.A.R. § 40-7-9.

10. The Commissioner may revoke any license issued under the Insurance Agents Licensing Act if the Commissioner finds that the insurable interests of the public are not properly served under such license. K.S.A. 2002 Supp. 40-4909(b).

Conclusions of Law

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

12. The Commissioner concludes that Rose's Kansas nonresident insurance agent's license may be revoked solely Rose had a license revoked in another state.

13. The Commissioner further concludes, based on the information contained in paragraphs 2, 4 and 7 that Rose either misrepresented his criminal history on his application for a license or has since been convicted of a crime and has failed to report the conviction to KID.

14. Accordingly, the Commissioner concludes that Rose's license may be revoked because Rose has provided incorrect, misleading, incomplete or untrue information on his license application, thereby obtaining a license through misrepresentation, or in the alternative, Rose's license may be revoked because Rose has violated the administrative regulation requiring a licensed agent to report a criminal conviction within 30 days.

15. The Commissioner also concludes, based on the information contained in paragraphs 4 and 7, that Rose has violated K.A.R. 40-7-9 by failing to report disciplinary actions in Idaho, California, and Florida within 30 days.

16. The Commissioner therefore concludes that sufficient grounds exist for the revocation of the insurance agent's license of Noel S. Rose pursuant to K.S.A. 2002 Supp. 40-4909(a).

17. Moreover, based on the information contained in paragraphs 5 through 7 above, the Commissioner finds that Rose has demonstrated irresponsibility in his dealings with the Kansas Insurance Department, and accordingly, his Kansas nonresident insurance agent's license should be revoked pursuant to K.S.A. 2002 Supp. 40-4909(b) for the protection of the insurable interests of the public.

18. Based on the facts and circumstances set forth herein, it appears that the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of the law and the protection of the public interest does not require the KID to give notice and opportunity to participate to persons other than Noel S. Rose.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas nonresident insurance agent's license of Noel S. Rose is hereby REVOKED.

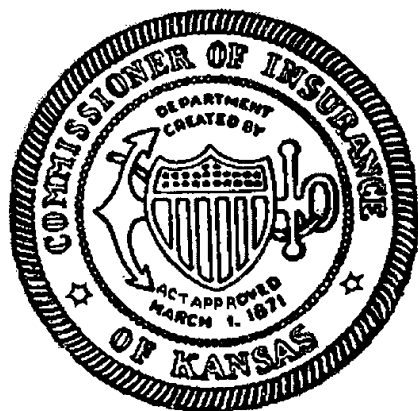
Notice and Opportunity for Hearing

Noel S. Rose, within fifteen (15) days of service of this Summary Order, may file with the KID written request for a 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 John W. Campbell, General Counsel, Kansas Insurance Department, 420 S.W. 9th Street, Topeka, KS 66612.

Any costs incurred as a result of conducting any administrative hearing shall be assessed against the agent 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 the 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-day period for requesting a hearing. The Final Order will constitute final agency action in this matter.

IT IS SO ORDERED THIS _13th_ DAY OF NOVEMBER 2003, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



_____/s/ Sandy Praeger
Sandy Praeger
Commissioner of Insurance
BY:

_____/s/ John W. Campbell
John W. Campbell
General Counsel

NOTICE: The person designated pursuant to K.S.A. 77-613(e) to receive service of a petition for judicial review on behalf of the KID is John W. Campbell, General Counsel, Kansas Insurance Department, 420 S.W. 9th St., Topeka, KS 66612.

Certificate of Service

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing Summary Order on this _13th_ day of November 2003, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Noel S. Rose
336 19th Ave.
Yuma, AZ 84364

_____/s/ Brenda J. Clary
Brenda J. Clary