

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

**FINAL ORDER**

Effective: 06/08/04

In the Matter of the Kansas Resident )  
Insurance Agent's License of )  
SUSANNA DALEY )

Docket No. 3322-SO

**AMENDED SUMMARY ORDER**

(Pursuant to K.S.A. 2003 Supp. 40-4909 and K.S.A. 77-537)

Pursuant to authority granted to the Commissioner of Insurance ("Commissioner") by K.S.A. 2003 Supp. 40-4909, the Commissioner hereby enters the following action against the nonresident agent's license of Susanna Daley ("Daley") 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 Daley is licensed as a nonresident agent to transact the business of insurance in Kansas and has been so licensed since January 4, 1985.
2. KID records further indicate a legal address of 3515 S. Hocker, Independence, MO 64055 and mailing address of 1225 N. 78<sup>th</sup> St. Suite F, Kansas City, KS 66112.
3. On or about February 13, 2004, the KID Consumer Assistance Division ("CAD") received a complaint from [REDACTED] alleging that she had paid premium to Daley for automobile coverage through July 26, 2003, through Benchmark Insurance Company ("Benchmark") but learned, as a result of a motor vehicle accident on July 24, 2003, that Benchmark had not received payment for the July premium.

4. In support of the complaint, [REDACTED] attached a copy of cancelled check number [REDACTED] for \$102.00, dated June 27, 2003, and a copy of the corresponding receipt from Allied/Daley Insurance Agency for check number [REDACTED] dated June 27, 2003, for \$102.00.

5. Also attached were copies of check number [REDACTED] for \$102.00 dated July 25, 2003, and corresponding receipt.

6. By letter of February 27, 2004, CAD transmitted a copy of the complaint to Benchmark and requested a response.

7. By letter of March 11, 2004, CAD transmitted a copy of the complaint to Allied Insurance Agency and Daley Insurance Agency and requested a response.

8. When neither Benchmark nor Daley had responded by April 1, 2004, CAD representative Daryl Richardson contacted both Daley and John Spain, Benchmark's Director of Compliance, by telephone and reminded them of the inquiry.

9. According to Richardson, Daley acknowledged receiving the letter and said she had not gotten around to sending a response.

10. Richardson reminded Daley that she would be subject to a fine for failing to respond, and she stated that she would respond.

11. Benchmark's response was transmitted to KID by facsimile on April 1, 2004.

12. Benchmark's response, by Spain, alleges that Benchmark first insured [REDACTED] in April 2003, the policy was not renewed, and Benchmark next received an application by Harris dated July 31, 2003.

13. Date of birth and Kansas driver's license number on the application and accident report indicate that [REDACTED] and [REDACTED] are the same person.

14. Spain stated that the agent advised Benchmark that [REDACTED] filled out and dated an application in June, left without signing it, and returned on July 31 and signed the application.

15. Daley is under contract with Med James, Inc., a managing general agency for Benchmark, is not appointed by Benchmark, and does not have authority to bind coverage without written authorization from Med James, Inc.

16. To date, Daley has not responded to KID's inquiry.

17. Absent evidence to the contrary, the Commissioner must find that Daley, at a minimum, accepted premium but failed to assure that the corresponding application for insurance was completed and submitted in a timely fashion.

### **Applicable Law**

18. K.S.A. 2003 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: . . . (2) Violated . . . (B) Any subpoena or order of the commissioner; . . . (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 . . .” K.S.A. 2003 Supp. 40-4909(a).

19. 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. 2003 Supp. 40-4909(b).

### **Conclusions of Law**

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

21. The Commissioner finds that Daley has demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in her failure to assure timely and complete submission of a consumer's application for insurance.

22. The Commissioner also finds that Daley received but failed to respond to a proper inquiry from KID despite a follow-up telephone call from a CAD representative.

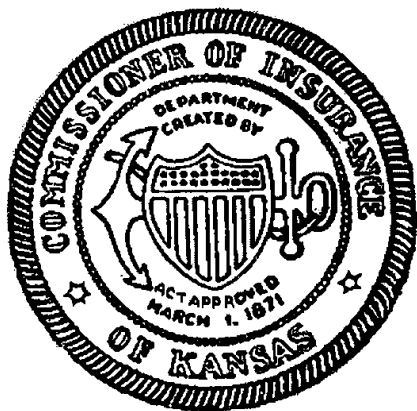
23. Therefore, the Commissioner concludes that sufficient grounds exist for action against the insurance agent's license of Susanna Daley pursuant to K.S.A. 2003 Supp. 40-4909(a).

24. Accordingly, the Commissioner concludes that Daley should be fined pursuant to K.S.A. 40-4909(h) for her failure to respond to KID's inquiry and lack of trustworthiness in the conduct of her insurance business.

25. 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 Susanna Daley.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT** Kansas nonresident agent Susanna Daley shall immediately pay an administrative penalty of **\$500** to the Kansas Insurance Department. **IT IS FURTHER ORDERED THAT,** if the penalty has not been paid by the effective date of this order, the Kansas nonresident insurance agent's license shall be **suspended** until such time as the penalty, plus an additional penalty of \$100 per full week after the effective date, is paid in full.

IT IS SO ORDERED THIS 18th DAY OF MAY 2004, 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. 9<sup>th</sup> St., Topeka, KS 66612.

**Certificate of Service**

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing **Notice** and **Summary Order** on this 18<sup>th</sup> day of May 2004, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Susanna Daley  
1225 N. 78<sup>th</sup> St. Suite F  
Kansas City, KS 66112

/s/ Brenda J. Clary  
Brenda J. Clary

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

In the Matter of the Kansas Resident )	
Insurance Agent's License of )	Docket No. 3326-SO
SUSANNA DALEY )	

**NOTICE OF SUMMARY ORDER**

Notice is hereby given that the attached Summary Order will become effective fifteen (15) days after service of this Notice unless Respondent Susanna Daley files with the Kansas Insurance Department ("KID") a written request for a hearing, as provided by K.S.A. 77-542. In the event a hearing is requested, the attached summary order will serve to give notice of the allegations upon which KID bases its proposed action.

A request for hearing should be directed to John W. Campbell, General Counsel, Kansas Insurance Department, 420 S.W. 9<sup>th</sup> Street, Topeka, KS 66612.

Any costs incurred as a result of conducting any administrative hearing may be assessed against an agent who is the subject of the hearing as provided by K.S.A. 40-4909(f).

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.

Dated this \_18th\_ day of May 2004.

\_s/ Brenda J. Clary\_\_\_\_\_  
Brenda J. Clary  
Staff Attorney  
Kansas Insurance Department