

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

In the Matter of the Kansas Resident )  
Insurance Agent’s License of ) Docket No. **4495--SO**  
**BRIAN C. HENTON** )  
NPN 8395306. )

**SUMMARY ORDER**

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

Pursuant to authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-4909, the Commissioner hereby proposes to find facts and revoke the Kansas resident insurance agent’s license of Brian C. Henton (“Respondent”) by way of Summary Order as provided by K.S.A. 77-537.

**Findings of Fact**

1. Records maintained by the Kansas Insurance Department (“KID”) reflect that Respondent is licensed as a resident agent to transact the business of insurance in Kansas and has been so licensed since March 22, 2005.
2. Respondent’s legal and mailing address of record is 712 Purdom, Olathe, KS 66061.
3. Following investigation, the Commissioner has no reason to believe that protection of the public interest requires the Commissioner to give notice and opportunity to participate to anyone other than the respondent.
4. Following investigation, the Commissioner finds evidence sufficient to support the following findings of fact:
5. In 2010, Respondent sold a Medicare supplement plan to consumer M.L.W., of Baxter Springs, Kansas.
6. On May 2, 2012, Respondent contacted M.L.W. by telephone and offered her a better and cheaper alternative, and she agreed to the change in that conversation.
7. Respondent altered the Medicare enrollment dates and forged the signature on copy of M.L.W.’s Medicare card, then submitted the altered card with the application.
8. Respondent also included incorrect information in the application and forged M.L.W.’s signature on the application.

9. By letter of August 27, 2012, addressed to Respondent at his address of record, counsel for KID summarized the foregoing information and invited Respondent to reply if he disputed the facts.

10. To date, Respondent has not replied, and the letter has not been returned; thus, the facts are deemed undisputed.

### **Applicable Law**

11. K.S.A. 2011 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: . . .

(7) Admitted to or been found to have committed any insurance unfair trade practice or fraud in violation of K.S.A. 40-2404 and amendments thereto. . . .

(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. . . .

(10) Forged another person’s name to an application for insurance or to any document related to an insurance transaction.” K.S.A. 2011 Supp. 40-4909(a).

12. K.S.A. 40-2404(11) defines the following unfair trade practice: “Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual.”

13. The Commissioner may revoke any license issued under the Insurance Agents Licensing Act if the Commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under such license. K.S.A. 2011 Supp. 40-4909(b).

### **Conclusions of Law**

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

15. The Commissioner finds that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(8) because Respondent has used a fraudulent or dishonest practice.

16. The Commissioner further finds based on the same conduct that Respondent’s license may be revoked pursuant to K.S.A. 40-4909(a)(7) for having committed an

insurance unfair trade practice in violation of K.S.A. 40-2404(11), and pursuant to K.S.A. 40-4909(a)(10) for having forged another person's name to an insurance application and a document related to an insurance transaction.

17. Based on the foregoing findings, the Commissioner concludes that sufficient grounds exist for the revocation of Respondent's insurance agent's license pursuant to K.S.A. 40-4909(a).

18. The Commissioner further concludes Respondent's license may be revoked pursuant to K.S.A. 40-4909(b) because such license is not properly serving the interests of the insurer and the insurable interests of the public.

19. 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, the protection of the public interest does not require the KID to give notice and opportunity to participate to persons other than Respondent, and after investigation, KID believes in good faith that the allegations will be supported to the applicable standard of proof.

#### **Policy to be Served**

20. Before issuing an insurance agent license, the Commissioner must determine that the applicant is qualified and has not committed any act that would be grounds for denial, suspension, or revocation. K.S.A. 40-4905(b). Further, the Commissioner may revoke any license issued under the Insurance Agents Licensing Act if the Commissioner finds that the interests of the insurer or the insurable interests of the public are not properly served under the license. The following action is necessary and appropriate to promote the security and integrity of the insurance business and protect insurance consumers by licensing, or continuing to license, persons or entities to sell, solicit, or negotiate insurance in the State of Kansas only if their conduct indicates they are both qualified and trustworthy.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT** the Kansas resident insurance agent's license of **BRIAN C. HENTON** is hereby **REVOKED**. **It is further ordered**, that **BRIAN C. HENTON** shall **CEASE and DESIST** from the sale, solicitation, or negotiation of insurance, doing any act toward the sale,

solicitation, or negotiation of insurance, and/or receiving compensation deriving from the sale, solicitation, or negotiation of insurance in Kansas or on Kansas risks through business conducted on and after the effective date of this order.

**It is further ordered**, pursuant to KSA 77-415(b)(2)(A), that this order is designated by KID as precedent.

**IT IS SO ORDERED THIS \_\_20th\_\_ DAY OF SEPTEMBER 2012, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



\_\_\_\_\_/s/ Sandy Praeger\_\_\_\_\_  
Sandy Praeger  
Commissioner of Insurance

BY:

\_\_\_\_\_/s/ Zachary J.C. Anshutz\_\_\_\_\_  
Zachary J.C. Anshutz  
General Counsel

**NOTICE OF RIGHTS TO HEARING AND REVIEW**

**Within fifteen (15) days of the date of service of this Summary Order, Respondent** may submit a written request for a hearing pursuant to K.S.A. 77-537 and K.S.A. 77-542. Any request for a hearing should be addressed to the following:

Zachary J.C. Anshutz, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612

If a hearing is requested, the Kansas Insurance Department will serve notice of the time and place of the hearing and information on procedures, right of representation, and other rights of parties relating to the conduct of the hearing.

**If a hearing is not requested in the time and manner stated above, this Summary Order shall become effective as a Final Order upon the expiration of time for requesting a hearing.** In the event Respondent 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

Zachary J.C. Anshutz, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas 66612

**Certificate of Service**

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing **Summary Order** and accompanying **Notice of Rights** on this \_\_\_20th\_\_\_ day of September 2012, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Brian C. Henton  
712 Purdom  
Olathe, KS 66061

\_\_\_\_\_/s/ Brenda J. Clary\_\_\_\_\_  
Brenda J. Clary  
Staff Attorney