

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

FINAL ORDER

Effective: 06/03/03

In the Matter of the Kansas Nonresident)
Insurance Agent's License of)
ANTHONY D. STROUP) Docket No. 3148-SO

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 resident agent's license of Anthony D. Stroup ("Stroup") 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 Stroup is licensed as a resident agent to transact the business of insurance in the State of Kansas and has been so licensed since August 8, 2002. KID records indicate a current legal and mailing address of 1304 Eisenhower Road, Hays, KS 67601.
2. KID records further indicate that Stroup submitted a "clean" application, denying any criminal conviction or current criminal charges, dated August 6, 2002.
3. Stroup signed the application under the certification and attestation, which stated in relevant part, "I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties."

4. By letter dated August 20, 2002, the KID advised Stroup that a Kansas Bureau of Investigation (“KBI”) criminal history report had disclosed an arrest on March 11, 2002, on bad check charges and requested an explanation by September 6, 2002, for his failure to disclose the charges.

5. On September 13, 2002, the KID sent a second letter demanding response by September 26, 2002.

6. Instead of a personal response from Stroup, the KID received a letter dated September 23, 2002, from Ross Wichman, an attorney writing on Stroup’s behalf.

7. Wichman’s letter explained that, on August 5, 2002, Wichman and the Trego County Attorney agreed to a diversion to dispose of the charges against Stroup. The letter included no details of the diversion agreement.

8. Wichman stated that Stroup had been employed as manager of two convenience stores owned by a failing business, and the checks were business-related and written on the business account.

9. In response, by letters dated September 27 and November 14, 2002, the KID asked for details regarding the diversion.

10. To date, Stroup has not responded.

Applicable Law

11. 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 . . . (2) Violated . . . (b) any subpoena or order of the commissioner; . . . (3) Obtained or attempted to obtain a license under this act through misrepresentation or fraud . . . [or] (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.”

12. 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

13. The Commissioner has jurisdiction over Stroup and the subject matter of this proceeding, and such proceeding is held in the public interest.

14. Based upon the KBI report and information contained in paragraphs 2, 7, and 8 above, the Commissioner finds that Stroup had unresolved criminal charges against him at the time he applied for a Kansas license.

15. In addition, the Commissioner finds that Stroup's failure or refusal to respond to the KID's demand for additional details of the diversion agreement, despite notice that failure to respond could result in action against his license, was a violation of the Commissioner's order.

16. Absent information regarding the terms of the agreement, the Commissioner has no choice but to construe the facts against Stroup and find that he has pending criminal charges alleging conduct that is material to his application for a Kansas resident agent's insurance license, omitted that information from his application, swore to the completeness and accuracy of the application, and declined an opportunity to make complete disclosure.

17. Moreover, the Commissioner finds that Stroup knew or should have known from the explanatory text in the application that he was required to disclose pending misdemeanor or felony charges, pleas of guilty or nolo contendere, and cases of deferred adjudication as well as final judgments.

18. The Commissioner concludes that Stroup obtained his Kansas license through a material misrepresentation by omitting the information that he had been charged with a crime and had entered into an agreement deferring adjudication.

19. Beyond his having been charged with a crime, based upon the information contained in paragraph 8, the Commissioner finds that Stroup has demonstrated incompetence, untrustworthiness, or financial irresponsibility in the conduct of business.

20. Accordingly, the Commissioner finds that sufficient grounds exist for the revocation pursuant to K.S.A. 2002 Supp. 40-4909(a) of the resident insurance agent's license of Anthony D. Stroup.

21. In addition, the Commissioner finds that the insurable interests of the public are not properly served under the resident insurance agent's license of Anthony D. Stroup, and the license should be revoked pursuant to K.S.A. 2002 Supp. 40-4909(b).

22. 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 Anthony D. Stroup.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas resident insurance agent's license of Anthony D. Stroup is hereby REVOKED.

Notice and Opportunity for Hearing

Anthony D. Stroup, 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:

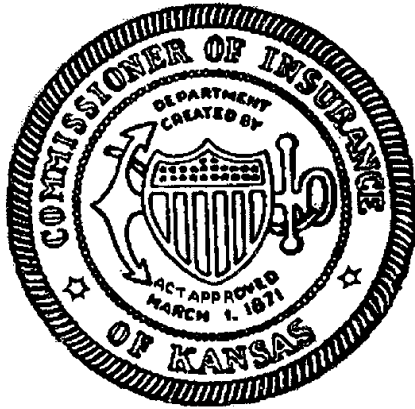
John W. Campbell
General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, KS 66612

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. 2002 Supp. 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 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.

IT IS SO ORDERED THIS 15th DAY OF MAY, 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

Certificate of Service

The undersigned hereby certifies that he served the above and foregoing Summary Order on this _15th_ day of May, 2003, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Anthony D. Stroup
1304 Eisenhower Road
Hays, KS 67601

_ /s/ John W. Campbell
John W. Campbell