

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

In the Matter of Kansas Resident)
Insurance Agent STEPHEN M. CLARK)

Docket No. 3144-CO

CONSENT ORDER

Kansas resident insurance agent Stephen M. Clark (“Clark”) wishes to resolve this matter without formal adjudicative proceedings by entering into this consent order. Having been advised of his right to a hearing prior to the issuance of an order, Clark stipulates and agrees that the unlicensed activity that occurred following suspension and termination of his license is resolved as follows:

Facts

1. Records maintained by the Kansas Insurance Department (“KID”) indicate that Clark is currently a resident of Kansas and is licensed to transact the business of insurance as a resident insurance agent in the State of Kansas.
2. KID records further indicate that Clark’s mailing address is 1446 North Cedar Park Circle, Wichita, KS 67235.
3. When the KID did not receive proof of continuing education (“CE”) completion by Clark’s biennial due date, October 25, 2002, Clark’s license was automatically suspended pursuant to K.S.A. 2002 Supp. 40-4903(f)(2) for failure to comply with the continuing education requirement.
4. When the KID still had not received proof of CE completion ninety (90) days later, the license was terminated pursuant to K.S.A. 2002 Supp. 40-4903(f)(2).

5. Upon receipt of proof of errors and omissions insurance coverage, proof of CE completion, and a \$200 reinstatement fee, the KID reissued Clark's license effective February 12, 2003.

6. During the interim, Clark's sales produced \$4,433.58 in commissions.

7. Clark's failure to provide proof of CE completion was inadvertent and stemmed from his move from Oklahoma, where his renewal date was March 1, to Kansas and a subsequent unreported change of address, which prevented him from receiving a renewal notice from the KID.

Applicable Law

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

“(a) 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: (A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder . . .”

9. K.A.R. § 40-7-9(f) and (g) require a licensed agent to report a change of residential or business address within thirty (30) days.

10. It is unlawful for any person to sell, solicit or negotiate any insurance within this state without a license. K.S.A. 2002 Supp. 40-4905.

11. In lieu of taking any action under K.S.A. 2002 Supp, 40-4909(a), the Commissioner may issue an order censuring an agent and/or imposing a monetary penalty of up to \$500 for each violation or up to \$1000 for each violation which the agent knew or should have known could give rise to a disciplinary proceeding. K.S.A. 2002 Supp, 40-4909(h).

Conclusions of Law

12. The Commissioner of Insurance (“the Commissioner”) has jurisdiction over the subject matter of this proceeding, and this proceeding is held in the public interest.

13. Based on the information contained in paragraph 7 above, it appears that Clark has failed to maintain a current address on file with the KID.

14. Based on the information contained in paragraphs 3 through 6 above, it appears that Clark has committed numerous violations of K.S.A. 2002 Supp. 40-4905(a) by selling, soliciting, and negotiating insurance in the State of Kansas without a license.

15. Consequently, pursuant to K.S.A. 2002 Supp. 40-4909, the Commissioner may suspend or revoke Clark's insurance agent's license, censure Clark, and/or impose a fine.

16. Although these violations appear to have been inadvertent, Clark should have known that he was transacting insurance business without a license and that such conduct could give rise to a disciplinary proceeding or other action; therefore, a fine for a knowing violation is warranted.

17. However, the Commissioner finds that, while Clark committed technical violations and inadvertently engaged in numerous unlicensed transactions in violation of the insurance code, no consumer was directly harmed by the transactions.

18. Clark has stipulated to the factual allegations, consented to a penalty of \$1000, and waived his right to hearing and review of this order.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

1. Stephen M. Clark is formally censured for failing to report his change of address, failing to submit proof of CE completion, and transacting business without a license.

2. Stephen M. Clark shall remit to the Commissioner of Insurance an administrative penalty pursuant to K.S.A. 40-4909(h) in the amount of \$1000 at the time he signs and tenders this order for the Commissioner's approval and signature.

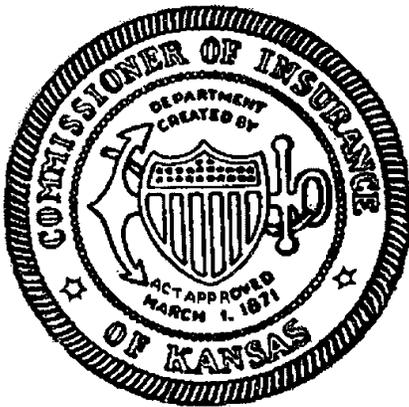
3. Upon signature and filing by the Commissioner or the Commissioner's designee, this order will constitute a final agency action.

4. 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.

Stephen M. Clark Date

Brenda J. Clary Date
Staff Attorney

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



Sandy Praeger
Commissioner of Insurance
BY:

John W. Campbell
General Counsel

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing Consent Order was served on this 30th day of April, 2003, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Stephen M. Clark
1446 North Cedar Park Circle
Wichita, KS 67235

_s/ Jana L. Beethe_____

Jana L. Beethe