

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

In the Matter of the Kansas Resident)	
Insurance Agent's Licenses of)	Docket Nos. 3138-SO
JOHN H. SCHMIDT and)	and 3139-SO
PATSY L. SCHMIDT)	

FINAL ORDER

The above-captioned matters are disciplinary actions against the Kansas resident insurance agent's licenses of respondents John H. Schmidt and Patsy L. Schmidt pursuant to K.S.A. 2002 Supp. 40-4909 and the Kansas Administrative Procedures Act (KAPA), K.S.A. 77-501, *et seq.*

The matters came on for Prehearing Conference on the 20th day of June 2003 at 9:35 a.m. before Presiding Officer Bob Tomlinson, Assistant Commissioner of Insurance, designated by the Commissioner to serve as agency head pursuant to K.S.A. 77-547. Respondents John H. Schmidt and Patsy L. Schmidt appeared pro se, and the Kansas Insurance Department appeared by and through Staff Attorneys Brenda J. Clary and Keri Kish.

The matters were consolidated by agreement of the parties, after which John H. Schmidt and Patsy L. Schmidt consented and agreed to entry of the following findings of fact, conclusions of law, and final order revoking their Kansas resident insurance agent's licenses.

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 John H. Schmidt and Patsy L. Schmidt.

Findings of Fact

1. Records maintained by the Kansas Insurance Department (“KID”) indicate that John H. Schmidt is licensed as a resident agent to transact the business of insurance in the State of Kansas. KID records further indicate a legal address of 4501 Winged Foot Court, Lawrence, KS 66049 and mailing address of 3300 W. 15th, Suite 1, Lawrence, KS 66049.

2. Records maintained by the Kansas Insurance Department (“KID”) indicate that Patsy L. Schmidt is licensed as a resident agent to transact the business of insurance in the State of Kansas. KID records further indicate a legal address of 4501 Winged Foot Court, Lawrence, KS 66049 and mailing address of 3300 W. 15th, Suite 1, Lawrence, KS 66049.

3. Following a complaint and investigation, the Kansas Securities Commission alleged that John H. Schmidt, as registered representative/agent of broker-dealer NYLIFE Securities, violated the Kansas Securities Act by selling unregistered securities and by engaging in dishonest or unethical practices, to wit: effecting securities transactions without the prior written approval of the broker-dealer (“selling away”).

4. Following a complaint and investigation, the Kansas Securities Commission alleged that Patsy L. Schmidt, as nonregistered associated person of broker-dealer NYLIFE Securities and employee of her husband, John H. Schmidt, a registered representative, violated the Kansas Securities Act by offering and selling general securities without being registered, by selling unregistered securities, and by engaging in

dishonest or unethical practices, to wit: effecting securities transactions without the prior written approval of the broker-dealer (“selling away”).

5. While neither admitting nor denying the factual allegations, John H. Schmidt entered into a stipulation waiving his right to contest the allegations and agreeing that his securities registration should be revoked and that he should be jointly and severally liable for a fine of \$10,000. A Consent Order, Docket No. 02E038, was filed March 11, 2003, with the Securities Commission.

6. While neither admitting nor denying the factual allegations, Patsy L. Schmidt entered into a stipulation waiving her right to contest the allegations and agreeing that she would withdraw her application for securities registration within 30 days and not make additional applications for at least two years and that she should be jointly and severally liable for a fine of \$10,000. A Consent Order, Docket No. 02E001, was filed March 11, 2003, with the Securities Commission.

Conclusions of Law

7. 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 . . . (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. 2002 Supp. 40-4909(a).

8. 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).

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

10. Having found that his registration as an agent under the Kansas Securities Act was revoked by way of consent order as a result of violations of regulations and dishonest or unethical conduct, the Commissioner concludes that sufficient grounds exist for the revocation of the insurance agent's license of John H. Schmidt pursuant to K.S.A. 2002 Supp. 40-4909(a).

11. Having found that her application for registration as an agent under the Kansas Securities Act was withdrawn by way of consent order as a result of violations of regulations and dishonest or unethical conduct, the Commissioner concludes that sufficient grounds exist for the revocation of the insurance agent's license of Patsy L. Schmidt pursuant to K.S.A. 2002 Supp. 40-4909(a).

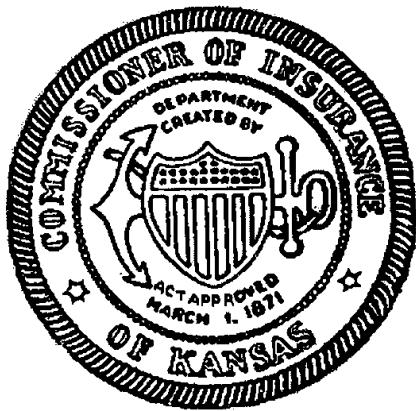
12. Moreover, the Commissioner finds that violations of law and regulations and dishonest or unethical business practices in the sales of securities reflect adversely on the fitness of respondents to engage in the business of insurance and, therefore, both licenses should be revoked pursuant to K.S.A. 2002 Supp. 40-4909(b) for the protection of the insurable interests of the public.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas resident insurance agent's licenses of John H. Schmidt and Patsy L. Schmidt are hereby **REVOKED**.

In that respondents have waived the right to further hearing and consented on the record to issuance of a final order, the order shall become effective as a Final Order on the date it is signed by the Commissioner or her designee and served upon the respondents. The Final Order will constitute final agency action in this matter. Accordingly, all administrative remedies will be deemed exhausted.

In the event the Petitioner files a petition for judicial review, the agency officer 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 66612-1678.

IT IS SO ORDERED THIS 23rd DAY OF JUNE, 2003, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Sandy Praeger
Commissioner of Insurance

BY:

_____/s/ Robert Tomlinson_____
Bob Tomlinson
Assistant Commissioner of Insurance

Dated this 23rd day of June 2003

Certificate of Service

The undersigned hereby certifies s/he served the above and foregoing **FINAL ORDER** on this 23rd day of June, 2003, by depositing the same in the United States Mail, first class postage prepaid, addressed to the following:

John H. Schmidt and
Patsy L. Schmidt
3300 W. 15th, Suite 1
Lawrence, KS 66049

_____/Brenda Clary_____