

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

**FINAL ORDER**

Effective: 09/05/03

In the Matter of the Kansas Nonresident        )  
Insurance Agent's License of                    )  
WILLIAM H. KAUTTER                            )        Docket No.    3195-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 nonresident agent's license of William H. Kautter ("Kautter") 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 Kautter is licensed as a resident agent to transact the business of insurance in the State of Kansas and has been so licensed since September 13, 1994. KID records indicate a current legal and mailing address of 12617 Cedar, Leawood, KS 66209.
2. KID records further indicate that Kautter has not submitted changes of address or notice of criminal convictions.
3. On August 6, 2003, KID received notice from Ronald Thon, President, Esot Resources, Inc., that Kautter, a former employee, had been convicted of mail fraud in case number 01-00321-01-CR-W-5 (Western District of Missouri) and sentenced to twelve months and one day in federal prison commencing on or about June 20, 2002.
4. According to copies of the judgment submitted with Thon's letter, special conditions of supervision require that, upon his release from prison, Kautter may not incur

credit charges or open lines of credit without the approval of the Probation Office; pursuant to Section 411 of the Employee Retirement Income Security Act (29 U.S.C. 1111), may not serve as administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee, or representative or of any employee benefit plan and is disqualified from serving in any capacity that involves decision making authority or control of assets of any employee benefit plan until 13 years after his release from prison; and shall not engage in any financial seminar, consultation, or presentation without the permission of the Probation Office. He is further ordered to make restitution in excess of \$626,000 to four victims.

### **Applicable Law**

5. 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: (a) Any provision of chapter 40 of the Kansas Statutes Annotated or any rule and regulation promulgated thereunder; . . . (6) Been convicted of a misdemeanor or felony . . . [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.”

6. Administrative regulations require that a person licensed in this state as an insurance agent shall, within 30 days of the occurrence, report the details of any conviction of a misdemeanor or felony. K.A.R. § 40-7-9(d).

7. Federal law prohibits any person who has been convicted of any criminal felony involving dishonesty or a breach of trust from willfully engaging in the business of insurance whose activities affect interstate commerce. 18 U.S.C. § 1033(e)(1)(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).

### **Conclusions of Law**

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

10. Based upon the information contained in paragraph 2 above, the Commissioner finds that Kautter has been convicted of a felony offense under federal law.

11. The Commissioner further finds from the special conditions of supervision that the sentencing judge found that Kautter's participation in the management of financial matters posed an exceptional risk to the public and concludes that the interests of public would not be properly served by Kautter's license.

12. Moreover, based on the information contained in paragraph 4, the Commissioner finds that Kautter has been convicted of a felony involving dishonesty or breach of trust, and the Commissioner concludes that, pursuant to 18 U.S.C. § 1033, Kautter's offense is one which precludes Kautter from engaging in the business of insurance.

13. The Commissioner also finds that Kautter failed to notify the KID of his conviction within 30 days, in violation of K.A.R. § 40-7-9.

14. Accordingly, the Commissioner finds that sufficient grounds exist for the revocation pursuant to K.S.A. 2002 Supp. 40-4909(a) of the nonresident insurance agent's license of William H. Kautter.

15. In addition, the Commissioner finds that the insurable interests of the public are not properly served under the nonresident insurance agent's license of William H. Kautter, and the license should be revoked pursuant to K.S.A. 2002 Supp. 40-4909(b).

16. 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 William H. Kautter.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT** the Kansas resident insurance agent's license of William H. Kautter is hereby **REVOKED.**

**Notice and Opportunity for Hearing**

William H. Kautter, 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:

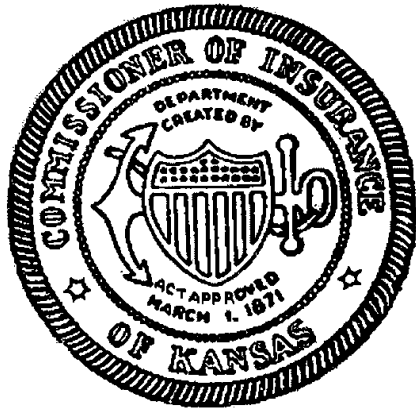
John W. Campbell  
General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, KS 66612

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. 9<sup>th</sup> St., Topeka, KS 66612.

**IT IS SO ORDERED THIS 18th DAY OF AUGUST, 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 18th day of August, 2003, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

William H. Kautter  
12617 Cedar  
Leawood, KS

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