

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

FINAL ORDER

Effective: 05/09/03

In the Matter of the Kansas Resident)
Insurance Agent's License of)
BERNADETTE N. NAGAWA) Docket No. 3141-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 Bernadette N. Nagawa ("Nagawa") 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 Nagawa is licensed as a resident agent to transact the business of insurance in the State of Kansas. KID records indicate a legal and mailing address of 6711 W. 72nd St., Overland Park, KS 66204.
2. KID records further indicate that Nagawa's license renewal date, her date of birth, is December 15.
3. By facsimile transmission, Nagawa submitted certification for 24 hours of continuing education ("CE") credit at 7:09 p.m. on December 13, 2002, a Friday.
4. Because its computer rejected all course identification numbers she submitted, the KID notified Nagawa by letter dated December 17, 2002, that her license was suspended as of the renewal date pending review of the course certificates.

5. The KID contacted CE providers and determined that none of the certificates were legitimate.

6. The faxed certificates have been visibly altered. Most notably, the type size and style of the year of the “Course Date” differs from the type size and style of the month and day where typed, and the date also appears to have been altered where handwritten. In addition, the handwritten dates of the signature of the instructor or administrator appear to have been altered, and the agent information appears to have been written over correction fluid in places.

7. By letter dated January 16, 2003, KID notified Nagawa of its findings and demanded an explanation.

8. On or about January 20, 2003, KID received legitimate certificates for 24 hours of CE credit for Nagawa and notified Nagawa, by letter dated January 21, 2003, that her renewal would not be processed until she provided a written response to the January 16 letter.

9. On January 26, 2003, KID received Nagawa’s January 26 letter in response. In her letter, Nagawa stated that her father died November 23, 2002. She indicated that she had neither time nor funds to take the CE courses to meet the renewal deadline, and she “panicked.”

10. Following an informal hearing on February 28, 2003, KID proposed that Nagawa agree to a consent order imposing a penalty of \$500 per falsified certificate, or \$4500, and ordering reinstatement upon payment of a \$200 reinstatement fee.

11. To date, Nagawa has not responded.

12. Nagawa’s employer, Primerica, has terminated her appointment.

Applicable Law

13. 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; . . . (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.”

14. Unless the Commissioner, upon written application, extends the time due to medical hardship or military service, an insurance agent must comply with continuing education requirements and file a report with the Commissioner certifying compliance before the agent’s biennial due date. The license is automatically suspended and a penalty is imposed if the agent fails to submit proof of completion of continuing education by the due date. See K.S.A. 2002 Supp. 40-4903(f).

15. A licensed insurance agent who is unable to comply with the license renewal procedures due to extenuating circumstances may request a waiver of the procedures from the Commissioner. K.S.A. 2002 Supp. 40-4903(j).

16. 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).

17. The lapse or suspension of a license issued under this act does not deprive the Commissioner of jurisdiction to proceed with a disciplinary proceeding. K.S.A. 2002 Supp. 40-4909(e).

Conclusions of Law

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

19. Based upon the information contained in paragraphs 2 through 6 and paragraph 9 above, the Commissioner finds that Nagawa has admitted falsifying CE course certificates to

reflect that she had completed the continuing education required for renewal of her license when, in fact, she had not completed the continuing education required by K.S.A. 2002 Supp. 40-4903 for continued licensure.

20. The Commissioner concludes that the KID properly determined that facially defective certificates of course completion did not constitute proof of completion of the courses and properly suspended Nagawa's license pending further investigation.

21. Although Nagawa could have requested a waiver of the procedures from the Commissioner if extenuating circumstances prevented her from completing the requirements in time for her renewal, she said nothing about her circumstances until after the authenticity of the certificates was challenged.

22. The Commissioner concludes that Nagawa attempted to obtain a license under this act through misrepresentation or fraud and that the same conduct constituted a fraudulent or dishonest practice and demonstrated untrustworthiness in the conduct of business in this state.

23. Moreover, Nagawa's license should be revoked pursuant to K.S.A. 2002 Supp. 40-4909(b) for the protection of the insurable interests of the public.

24. Accordingly, the Commissioner finds that sufficient grounds exist for the revocation of the resident insurance agent's license of Bernadette N. Nagawa.

25. 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 Bernadette N. Nagawa.

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

Notice and Opportunity for Hearing

Bernadette N. Nagawa, 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:

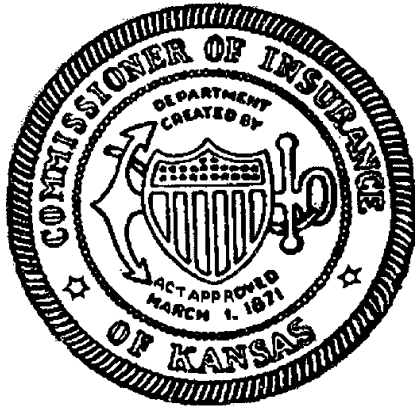
John W. Campbell
General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, KS 66612

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 21st DAY OF APRIL, 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 21st day of April, 2003, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Bernadette N. Nagawa
6711 W. 72nd St.
Overland Park, KS 66204

/s/ John w. Campbell _____
John W. Campbell