

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

In the Matter of the Proposed Adoption)
of the Market Conduct Review Report) Docket No. 2854-MC
of National Union Fire Insurance)
Company of Pittsburgh, Pennsylvania)

CONSENT ORDER

NOW COMES on for formal disposition the matter of the proposed adoption of the market conduct review report of National Union Fire Insurance Company. This matter is brought before the Commissioner of Insurance for adoption, rejection, or modification pursuant to the provisions of Kansas Statutes Annotated (K.S.A.) 40-222.

I, Kathleen Sebelius, the duly elected, qualified, and acting Commissioner of Insurance of the State of Kansas, having fully considered and reviewed the examination report, together with all written submissions, applicable rebuttals, and all relevant portions of the examiners' work papers, and further being fully advised on all premises, hereby find:

Findings of Fact

- 1 The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222.
2. A market conduct review of National Union Fire Insurance Company was undertaken by the Kansas Insurance Department and was completed on December 21, 1999.
3. Within thirty (30) days following the completion of the examination, the examiner-in-charge tendered and filed with the Kansas Insurance Department a verified written report of the market conduct review, copy of which report is attached as Exhibit A and

incorporated herein by reference, which report states that National Union Fire Insurance Company failed tests one, two, and four of the exam.

4. Within thirty (30) days following receipt of the verified written report, the Kansas Insurance Department transmitted the report to National Union Fire Insurance Company with a duly executed notice advising the company of its opportunity to prepare and submit to the Kansas Insurance Department a written submission or rebuttal with respect to any and all matters contained in the report. National Union Fire Insurance Company was further advised that any written submission or rebuttal needed to be filed with the Kansas Insurance Department no later than February 25, 2000.

5. National Union Fire Insurance Company filed a written rebuttal to the findings of tests one, two, and four on February 24, 2000.

6. Within thirty (30) days following written response, the Commissioner of Insurance fully reviewed the report together with any written response provided by National Union Fire Insurance Company. The Commissioner of Insurance further reviewed all relevant work papers.

7. The company took exceptions to matters contained in the verified report including the statement of failure of tests one, two, and four, and neither admits nor denies the shortcomings of said tests but enters into this Consent Order voluntarily to conserve the resources of the company and the Kansas Insurance Department.

Conclusions of Law

8. K.S.A. 40-222(k)(2) provides:

Within 30 days of the end of the period allowed for the receipt of written submissions or rebuttals, the commissioner shall fully consider and review the report, together with any written submissions or rebuttals and any relevant portions of the examiners workpapers and enter an order:

(A) Adopting the examination report as filed or with modification or corrections. If the examination report reveals that the company is operating in violation of any law, regulation or prior order of the commissioner, the commissioner may order the company to take any action the commissioner considers necessary and appropriate to cure such violations; or

(B) rejecting the examination report with directions to the examiners to reopen the examination for purposes of obtaining additional data, documentation or information, and refiling pursuant to subsection (k); or

(C) call and conduct a fact-finding hearing in accordance with K.S.A. 40-281 and amendments thereto for purposes of obtaining additional documentation, data, information and testimony.

9. K.S.A. 40-2407 “Cease and desist orders; penalties for violation”

(a)(1) (1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation; but not to exceed an aggregate penalty of \$10,000, unless the person knew or reasonably should have known such person was in violation of this act, in which case the penalty shall be not more than \$5,000 for each and every act or violation, but not to exceed an aggregate of \$50,000 in any six-month period;

10. Based upon the Findings of Fact enumerated in paragraphs #1 through #7 above, the conduct of affairs examination report of National Union Fire Insurance Company should be adopted.

Policy Reasons

11. It is stated public policy of the State of Kansas that whenever the Commissioner of Insurance deems it necessary, an examination of the affairs and financial condition of any insurance company in the process of organization, applying for admission, or doing business in this State can be undertaken. In all cases, such an examination must occur once every five (5) years. Through the examination process, the insurance consuming public will be well served and protected.

IT IS THEREFORE, BY THE COMMISSIONER OF INSURANCE, ORDERED THAT:

1. The market conduct review of National Union Fire Insurance Company is hereby adopted.
2. The Commissioner hereby orders National Union Fire Insurance Company to pay a penalty of \$10,375 within thirty (30) days of the date of this Consent Order.
3. The Commissioner of Insurance acknowledges National Union Fire Insurance Company's compliance with Recommendations 1, 2, and 3.
4. The Commissioner further orders pursuant to K.S.A. 40-222 (k)(3) that the company file written affidavits executed by each of its directors stating under oath that they have received a copy of the adopted report and related orders.

Waiver of Rights to Hearing and Appeal

For the purposes of this Consent Order, National Union Fire Insurance Company waives its rights to a formal adjudicative proceeding as provided for in the Kansas Administrative Procedure Act (K.S.A. 77-501, *et seq.*) and K.S.A. 40-222(K)(2)(A), and appeal pursuant to K.S.A. 77-601, *et seq.*

IT IS SO ORDERED THIS 20th DAY OF OCTOBER, 2000, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



_____/s/ Kathleen Sebelius_____

Kathleen Sebelius
Commissioner of Insurance

BY:

_____/s/ Kathy Greenlee_____

Kathy Greenlee
General Counsel

APPROVED:

/s/ Kenneth V. Harkins_____

Kenneth V. Harkins

Senior Vice-President/General Counsel

National Union Fire Insurance Company of Pittsburgh, Pennsylvania