

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

In the Matter of the Kansas Resident)
Insurance Agent’s License of) **Docket No. 2892-SO**
JOHN C. QUEEN)

SUMMARY ORDER TO CEASE AND DESIST

Pursuant to the authority granted the Commissioner of Insurance (“Commissioner”) by K.S.A. 1999 Supp. 40-2407, the Commissioner hereby orders John C. Queen (“Queen”) to cease and desist from the violations listed herein, by way of Summary Order, as provided for by K.S.A. 77-537.

The Commissioner hereby makes the following findings of fact, conclusions of law and order, to-wit:

1. Records maintained by the Kansas Insurance Department (“KID”) indicate that Queen is a resident of the State of Kansas, and has a current mailing address of 417 Mill, Box 635, Cottonwood Falls, Kansas 66845, and that he is licensed to transact the business of insurance as a resident insurance agent in the State of Kansas.

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

3. On July 14, 2000, KID received a letter from Queen requesting copies of all statutes and rules that apply to advertising of Nursing Home Insurance. (Exhibit 1).

4. The above letter was enclosed in an envelope which had the following on the outside of it: “Here is the insurance information you requested –

- 18 years of experience
- 3 million in paid claims

- Never had a claim denied
- Licensed in your state
- 'A' rated competitive companies

The envelope had the return address of John Queen, Inc, P.O. Box 635, Cottonwood Falls, Kansas 66845. (Exhibit 1)

5. The above-requested information in paragraph 3 was provided to Queen pursuant to the Open Records Act.

6. On August 18, 2000, KID received a letter from Queen requesting that KID approve the enclosed advertising as a mailer, flyer or possible internet cite to try to market Long-Term Care. (Exhibit 2).

CONCLUSIONS OF LAW

7. Section 2(B) of the Advertisements of Accident and Sickness Insurance Model Regulation as adopted by K.A.R. 40-9-100 provides:

“Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All of the insurer’s advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer whose policies are advertised.”

8. Section 5 of the Advertisements of Accident and Sickness Insurance Model Regulation as adopted by K.A.R. 40-9-100 provides in relevant part:

‘F. An insurer, agent, broker, producer, solicitor or other person shall not solicit a resident of this state for the purchase of accident and sickness insurance in connection with or as the result of the use of advertisement by the person or any other persons, where the advertisement:

- (1) Contains any misleading representations or misrepresentations, or is otherwise untrue, deceptive or misleading with regard to the information imparted, the status, character or representative capacity of the person or the true purpose of the advertisement; or...”

9. Section 10 of the Advertisements of Accident and Sickness Insurance Model Regulation as adopted by K.A.R. 40-9-100 provides in relevant part:

“(A) An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to an insurer or policy shall not use irrelevant facts, and shall not be used unless it accurately reflects all of the current and relevant facts....”

10. The regulation in paragraph 9 above prohibits the use of statistics in a manner that is misleading and deceptive. This regulation requires the disclosure of all relevant facts and prohibits the use of irrelevant facts. Irrelevant facts include statistics that are out-of-date and no longer current. An advertisement that states the dollar amount of claims paid must also indicate the period over which the claims have been paid.

11. Section 17 of the Advertisements of Accident and Sickness Insurance Model Regulation as adopted by K.A.R. 40-9-100 provides:

“An advertisement shall not contain statements that are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendations.”

12. Section 4 of the Advertisements of Life Insurance and Annuities Model Regulation as adopted by K.A.R. 1999 Supp. 40-9-118 provides in relevant part:

(A) Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive....”

13. Section 8 of the Advertisements of Life Insurance and Annuities Model Regulation as adopted by K.A.R. 1999 Supp. 40-9-118 provides:

“An advertisement shall not contain statements, pictures or illustrations that are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly defines the scope and extent of the recommendation including, but not limited to, the placement of insurer’s rating in the hierarchy of the rating system cited.”

14. K.S.A. 1999 Supp. 40-2404 provides in relevant part:

“The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(2) Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, misrepresentation or statement with respect to the business of insurance or with respect to any person in the conduct of such person’s insurance business, which is untrue, deceptive or misleading....”

15. Based upon the information contained in paragraph 6 above, it appears John C. Queen was trying to get approval for advertising through the Kansas Insurance Department, in violation of Section 2(B) of the Advertisements of Accident and Sickness Insurance Model Regulation as adopted by K.A.R. 40-9-100.

16. Based upon the information contained in paragraph 4 above, it appears John C. Queen is soliciting residents of Kansas for the purchase of accident and sickness insurance in connection with or as the result of the use of advertisement where the advertisement contained misleading representations or misrepresentations, or is otherwise untrue, deceptive or misleading with regard to the information imparted, the status, character or representative capacity of the person or the true purpose of the

advertisement, to-wit: by stating “never had a claim denied” when Queen is an insurance agent and not an insurance company, in violation of Section 5(F)(1) of the Advertisements of Accident and Sickness Insurance Model Regulation as adopted by K.A.R. 40-9-100.

17. Based upon the information contained in paragraph 4 above, it appears John C. Queen used an advertisement relating to the dollar amounts of claims paid which used irrelevant facts and did not accurately reflect all of the current and relevant facts, to-wit: by stating “3 million in paid claims” without indicating the period over which the claims have been paid, in violation of Section 10(A) of the Advertisements of Accident and Sickness Insurance Model Regulation as adopted by K.A.R. 40-9-100.

18. Based upon the information contained in paragraph 4 above, it appears John C. Queen used an advertisement which contained a recommendation by any commercial rating system without indicating the purpose of the recommendation and the limitations of the scope and extent of the recommendations, in violation of Section 17 of the Advertisements of Accident and Sickness Insurance Model Regulation as adopted by K.A.R. 40-9-100.

19. Based upon the information contained in paragraph 4 above, it appears John C. Queen used an advertisement which was misleading in fact or by implication; the form and content of the advertisement of a policy was not sufficiently complete and clear so as to avoid deception; and had the capacity or tendency to mislead or deceive, to-wit: by stating “never had a claim denied” when Queen is an insurance agent and not an insurance company, in violation of Section 4(A) of the Advertisements of Life Insurance and Annuities Model Regulation as adopted by K.A.R. 1999 Supp. 40-9-118.

20. Based upon the information contained in paragraph 4 above, it appears John C. Queen used an advertisement which contained a recommendation by any commercial rating system without defining the scope and extent of the recommendation including, but not limited to, the placement of the insurer's rating in the hierarchy of the rating system cited, in violation of Section 8 of the Advertisements of Life Insurance and Annuities Model Regulation as adopted by K.A.R. 1999 Supp. 40-9-118.

21. Based upon the information contained in paragraph 4 above, it appears John C. Queen made, published, disseminated, circulated or placed before the public in the form of an envelope, statements with respect to the business of insurance which were deceptive and misleading, to-wit: the statement "3 million in paid claims" without indicating the period over which the claims have been paid; the statement "never had a claim denied" when Queen is an insurance agent and not an insurance company; and the statement "A' rated competitive companies" without indicated the purpose of the recommendation and the limitations of the scope and extent of the recommendation, in violation of K.S.A. 1999 Supp. 40-2404(2).

22. Based upon the facts and circumstances set forth hereinabove, it appears that the use of summary proceedings in the matter set forth herein does not violate any provision of law, and the protection of the public interest does not require KID to give notice and an opportunity to participate to persons other than John C. Queen, all in accordance with the provisions set forth in K.S.A. 77-537(a).

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

1. John C. Queen shall immediately cease and desist from all acts alleged to be violations herein. Specifically, John C. Queen shall cease and desist from sending any more advertising material to the Kansas Insurance Department for approval; and sending out advertising material which is misleading or deceptive. In the future, all proposed advertising should be sent into the company whose policy is being advertised, for approval.

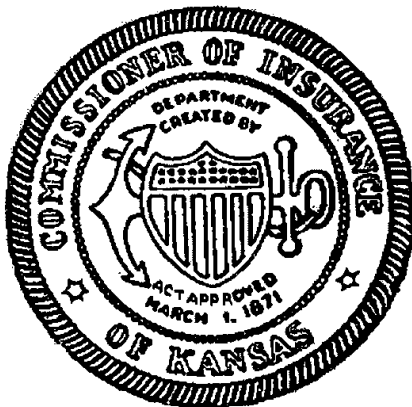
Notice and Opportunity for Hearing

John C. Queen may, within fifteen (15) days of service of this Summary Order, file with KID a written request for a hearing on this Summary Order, as provided for by K.S.A. 77-542. If John C. Queen desires a hearing, a written request must be made within the time prescribed to:

Kathy Greenlee
General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612-1678

If John C. Queen does not request a hearing, this Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period for requesting a hearing.

IT IS SO ORDERED THIS 5th DAY OF SEPTEMBER 2000 IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



 /s/ Kathleen Sebelius
Kathleen Sebelius
Commissioner of Insurance

BY:

/s/ Kathy J. Greenlee _____
Kathy J. Greenlee
General Counsel

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing Summary Order was served by placing the same in the United States Mail, first-class postage prepaid, on this 5th day of September 2000, addressed to the following:

John C. Queen
417 Mill
Box 635
Cottonwood Falls, Kansas 66845

/s/ Kathy J. Greenlee _____
Kathy J. Greenlee