

BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS

In the Matter of
Oak River Insurance Company)

) Docket No. 3007-SO

FINAL ORDER

SUMMARY ORDER

Effective: 7-23-01

Pursuant to the authority granted to the Commissioner of Insurance by Kansas Statutes Annotated (K.S.A.) 40-3107 and 40-2,125,

I, Kathleen Sebelius, the duly elected and qualified Commissioner of Insurance of the State of Kansas, hereby make the following findings of fact, conclusions of law, and order, to wit:

Findings of Fact

1. Oak River Insurance Company ("Oak River") is a stock insurance company authorized to transact the business of insurance in the State of Kansas with its office located at 9290 West Dodge Road, Suite 300, Omaha, Nebraska, 68114-3363, and is subject to the Kansas statutes regulating the business of insurance.

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

3. On May 24, 2001, the Kansas Insurance Department ("the Department") wrote Oak River regarding its Named Driver Exclusion Endorsement ("the endorsement").

4. On June 19, 2001, Oak River acknowledged the use of the endorsement was in error. The company determined that the endorsement was attached to a total of thirty (30) Kansas policies.

5. As a result of the mistake, the company has started to remove the endorsements from the policies to which it had been attached.

Conclusions of Law

6. K.S.A. 40-3107 provides, in relevant part:

(h)...any insurer may exclude coverage required by subsections (a), (b), (c) and (d) of this section while any insured vehicles are:

- (1) rented to others or used to carry persons for a charge... and
- (2) being repaired, serviced or used by any person employed or engaged in any way in the automobile business...

7. K.S.A. 40-2,125 provides, in relevant part:

(a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting violation of any provision of Kansas insurance statutes or any rule and regulation or order thereunder, the commissioner may in the exercise of discretion, order...

(1)...Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, unless the person knew or reasonably should have known such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder, in which case the penalty shall be no more than \$2,000 for each and every act or violation.

8. Based upon the information contained in paragraphs 3 through 5 above, it appears that Oak River erroneously applied the Named Driver Exclusion Endorsement in violation of K.S.A. 40-3107(g).

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

Oak River Insurance Company shall forward a draft in the amount of ONE THOUSAND DOLLARS (\$1,000.00) for failure to timely provide notice of non-renewal to the Commissioner. The Commissioner retains jurisdiction for additional administrative penalties concerning this failure to comply with 40-3107(g).

Notice of Rights

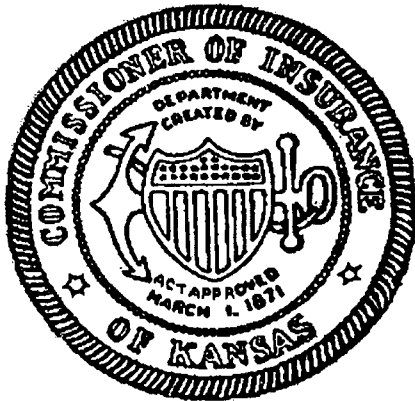
Respondent is entitled to a hearing on this order pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If Respondent desires a hearing, the organization must file a written request for a hearing with:

Ms. Deletria L. Nash
Staff Attorney
Kansas Insurance Department
420 S.W. Ninth Street
Topeka, Kansas 66612

A request for hearing must be received within fifteen (15) days from the date of this Summary Order. If Oak River Insurance Company requests a hearing, the Kansas Insurance Department will notify Respondent of the time and place of the hearing and information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing, before commencement of the hearing.

If a hearing is not requested in the time and manner stated above, this Summary Order becomes final and effective upon the expiration of the time for requesting a hearing.

IT IS SO ORDERED THIS 5th DAY OF JULY, 2001, IN THE CITY OF TOPEKA,
COUNTY OF SHAWNEE, STATE OF KANSAS.



Kathleen Sebelius

Kathleen Sebelius
Commissioner of Insurance
BY:

Kathy Greenlee

Kathy 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 prepared, on this 5th day of July, 2001, addressed to the following:

Robert L. Stafford, Corporate Secretary
Oak River Insurance Company
9290 West Dodge Road
Suite 300
Omaha, Nebraska 68114-3363



Deletria L. Nash
Staff Attorney