

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

In the Matter of CLARENDON NATIONAL )  
INSURANCE COMPANY )      Docket No. 3024-CO

**CONSENT ORDER**

Clarendon National Insurance Company ("the company") wishes to resolve this matter without formal adjudicative proceedings by entering into this consent order. The Commissioner of Insurance ("Commissioner") hereby makes the following findings of fact, conclusions of law, and order, to wit:

**Findings of Fact**

1. Clarendon National Insurance Company ("the company") is an insurance company authorized to transact the business of insurance in the State of Kansas with its office located at 224 West State Street, Trenton, New Jersey 08608, 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. Clarendon National Insurance Company ("Clarendon") entered into an agreement whereby Stirling Cook Insurance Services ("Stirling") is its Managing General Agent.

4. In January, 1997, the Kansas Insurance Department ("KID") notified Stirling that policyholders must receive notices 60 days prior to non-renewal and an extension endorsement could not be issued to make the notices comply. The company agreed to comply with our law in the future.

5. On December 6, 1999, Stirling sent five policyholders written notices on behalf of Clarendon stating that their policies would expire on February 1, 2000. The form was not filed with the Kansas Insurance Department ("KID") prior to use.

6. A "Miscellaneous Information Worksheet" was sent as an endorsement to "Workers Compensation and Employers Liability Insurance Policy, Form Number 'WC 99 06 01'" by Stirling to the five Clarendon policyholders to change the date of cancellation from February 1 to February 5. The endorsement was not submitted to the KID prior to use in Kansas.

7. Stirling sent the policyholders notices that their policies would not be non-renewed after the Kansas Insurance Department informed the agent that the notices and endorsements were sent in violation of Kansas law.

### **Conclusions of Law**

8. K.S.A. 40-216 provides in relevant part...

...The commissioner may also require the filing of such other documents and papers as are necessary to determine compliance with the laws of this state...

9. K.S.A. 40-2,121 provides, in relevant part:

Any insurance company that denies renewal or substitution of similar coverage for the same exposures under any property or casualty insurance policy which is used primarily for business or professional needs shall give at least 60 days' written notice to the named insured at such person's last known address of the insurance company's intention not to renew such policy. The company may satisfy this obligation by causing such notice to be given by a licensed agent.

10. 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 a 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 any one or more of the following:

(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 not more than \$2,000 for each and every act or violation;

(3) that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the

commissioner will carry out the purposes of the violated or potentially violated provision.

(b) If any person fails to file any report or other information with the commissioner as required by statute or fails to respond to any proper inquiry of the commissioner, the commissioner, after notice and opportunity for hearing, may impose a penalty of up to \$500 for each violation or act, along with an additional penalty of up to \$100 for each week thereafter that such report or other information is not provided to the commissioner.

11. K.S.A. 40-2,134 provides in relevant part...

The acts of the MGA are considered to be the acts of the insurer on whose behalf it is acting.

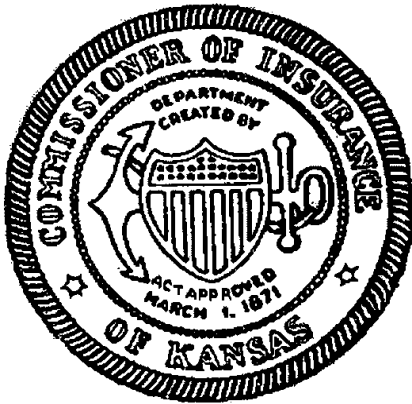
12. Based upon the information contained in paragraphs 3 through 7 above, it appears that Stirling Cooke Insurance Services Inc. issued and delivered the "Miscellaneous Information Endorsement" on behalf of Clarendon National Insurance Company prior to approval by the Commissioner in violation of K.S.A. 40-216.

13. Based upon the information contained in paragraphs 3 through 4 above, it appears that Stirling Cooke Insurance Services Inc. issued and delivered five notices of non-renewal with an expiration date shorter than 60 days on behalf of Clarendon National Insurance Company in violation of K.S.A. 40-2,121.

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

Clarendon National Insurance Company shall forward a draft in the amount of FIVE THOUSAND DOLLARS (\$5,000.00) for issuing and delivering non-renewal notices with an expiration date shorter than 60 days and endorsements prior to approval by the Commissioner.

IT IS SO ORDERED THIS \_\_12th\_\_ DAY OF DECEMBER, 2001, 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

/s/ Kevin Fitzgerald  
Kevin Fitzgerald  
Attorney for Respondent  
Clarendon National Insurance Company

/s/ Deletria L. Nash  
Deletria L. Nash  
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