

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

In the Matter of SAGAMORE       )  
INSURANCE COMPANY                )

Docket No. 3025-CO

**CONSENT ORDER**

Sagamore Insurance Company (“Sagamore”) 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. Records maintained by the Kansas Insurance Department (“KID”) indicate that Sagamore is a Kansas admitted, foreign insurance company with offices located at 1099 N. Meridian Street, Indianapolis, Indiana 46204 and is subject to the Kansas statutes regulating the business of insurance.

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

3. In August 2001, the KID received and processed a large number of appointments for Sagamore. For the most part, the effective dates of the appointments were in 1999 and 2000.

4. On the effective dates of the appointments, K.S.A. 40-241i would require that the company provide certification to the KID no later than March 1, 2000 for 1999 appointments and by March 1, 2001 for appointments in 2000.

5. On September 25, 2001, the KID sent a letter to Sagamore requesting details as to why these appointments were not submitted within the required time.

6. On October 12, 2001, the KID received a letter from Craig C. Morfas (“Morfas”), General Counsel of Sagamore explaining the late appointments. Sagamore has three divisions operating in Kansas: personal auto, small fleet trucking and small business workers’ compensation. Because their personal auto agents have binding authority, their agents are appointed as soon as they are authorized by them to present their product to a client.

7. The misunderstanding occurred in Sagamore’s other two divisions, which normally do business only on a brokerage business and where the agent’s binding authority is limited by contract. Because their agents for these two products do not have binding authority, they believed, as is the case in other states, that it was not required that they be appointed until they received from the agent an application for coverage on behalf of the client. Upon reviewing the KID’s letter of July 23, 2001 to all licensing directors, it appears that this was a common misunderstanding.

8. As soon as Sagamore received the KID’s letter of July 23, they immediately took steps to bring the other two divisions within compliance. They used the contract date to comply with the then existing law as they now understand it.

9. The total number of agents which were not properly appointed from 1999 until 2001 was 91.

### **Conclusions of Law**

10. K.S.A. 40-241i provides, in relevant part:

“(a) Any company authorized to transact business in this state may,...certify such agent as the agent of the company under the license in

effect for the agent. The certification shall be made to the commissioner on a form prescribed by the commissioner within 30 days of appointment of the agent by the company....”

11. K.S.A. 40-241(a) provides, in relevant part:

“[f]ailure of the company to certify an agent within 30 working days of such agent’s appointment shall subject the company to a penalty of not more than \$25 per calendar day from the date of appointment to the date proper certification is recorded by the insurance department.”

12. Based upon the information contained in paragraphs 3 through 9 above, it appears that Sagamore Insurance Company failed to certify 91 agents, as agents of the company within 30 days of appointment of the agents by the company, in violation of K.S.A. 40-241i.

13. Sagamore Insurance Company neither admits nor denies the allegations set forth herein this order as described above.

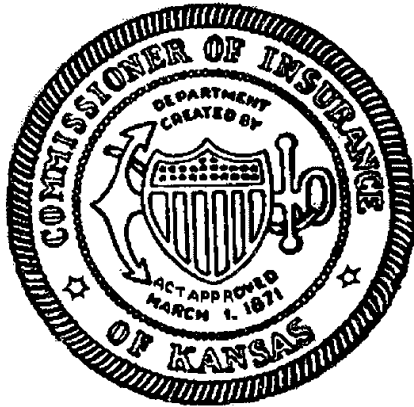
14. For the purposes of this Consent Order, Sagamore Insurance Company waives its right to a formal adjudicative proceeding and notice thereof and voluntarily consents to the following order of the Commissioner of Insurance.

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

1. Sagamore Insurance Company shall immediately cease and desist from all acts alleged to be violations herein. Specifically, Sagamore Insurance Company shall cease and desist from failing to certify an agent as the agent of the company within 30 days of appointment of the agent by the company.

2. Sagamore Insurance Company shall remit to the Kansas Insurance Department an administrative penalty in the sum of twenty thousand dollars (\$20,000.00) for violating K.S.A. 40-241i.

IT IS SO ORDERED THIS \_\_9th\_\_ DAY OF NOVEMBER, 2001, 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

APPROVED BY:

\_\_\_\_\_/s/ Craig Morfas\_\_\_\_\_  
Craig Morfas  
General Counsel  
Sagamore Insurance Company

SUBMITTED AND APPROVED BY:

\_\_\_\_\_/s/ JaLynn Copp\_\_\_\_\_  
JaLynn Copp  
Staff Attorney  
Kansas Insurance Department