

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

In the Matter of)
Central Reserve Life Insurance Company) Docket No.: 3283-MC

ORDER

Pursuant to the authority conferred to the Commissioner of Insurance in K.S.A. 40-202, Sandy Praeger, the duly elected, qualified Commissioner of Insurance hereby adopts the Kansas Insurance Department’s March 31, 2003 Report of Market Conduct Examination of Central Reserve Life Insurance Company by incorporating the same in its entirety attached herein as Attachment A.

Findings of Fact

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222.
2. A market conduct examination of Central Reserve Life Insurance Company (hereinafter “CRL”) was undertaken by the Kansas Insurance Department and was completed in September 2003.
3. On or about November 12, 2003, the examiner-in-charge transmitted a verified written Report of Market Conduct Examination of Central Reserve Life Insurance Company to CRL 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. CRL was further advised that any written submission or rebuttal needed to be filed with the Kansas Insurance Department no later than thirty (30) days after receipt of the verified report.

4. CRL filed its written rebuttal of the verified report on December 8, 2003.
5. The Kansas Commissioner of Insurance has since fully reviewed the said Kansas report which is attached herein as Attachment A.
6. The market conduct examination focused on CRL's complaint/grievance handling and its claim settlement practices.
7. The said examination involves a review of CRL's complaints and claims files (dated from January 1, 2001 to March 31, 2003,) in its office located in Strongsville, Ohio.
8. The examination revealed that, among ninety-nine (99) "paid-claims," CRL failed to investigate nine (9) such claims in a timely manner as mandated by K.S.A. 40-2442(a)(1), (a)(2) and (b) and related regulations during the time relevant to the examination.¹
9. Further, in the same category and on three (3) separate occasions, CRL failed to conduct timely investigations in accordance with K.A.R. 40-1-34, Sec. 7.²
10. In handling the "unpaid claims," the said examination revealed that CLR failed to conduct timely investigation in eleven (11) separate claims as required by K.S.A. 40-2442(a)(1) and (a)(2).³

¹ CRL's failures to conduct timely investigations in compliance to K.S.A. 40-2442(a)(1) in

"Paid Claims"	#4	Claim#	2749243
	#5		4604046
	#7		3345619
	#8		4710543
	#9		4786263
	#10		4616584
	#11		4420258
	#12		4957074
	#13		4858912

² CRL's failures to conduct timely investigation in accordance with K.A.R. 40-1-34, Sec 7, in

"Paid Claims"	#1	Claim#	4769181
	#2		4410154
	#14		4111142

Applicable Law

11. K.S.A. 40-2442 provides, in part:

(a) Within 30 days after receipt of any claim, and amendments thereto, any insurer issuing a policy of accident and sickness insurance shall pay a clean claim for reimbursement in accordance with this section or send a written or electronic notice acknowledging receipt of and the status of the claim. Such notice shall include the date such claim was received by the insurer and state that:

- (1) The insurer refuses to reimburse all or part of the claim and specify each reason for denial: or
- (2) Additional information is necessary to determine if all or any part of the claim will be reimbursed and what specific additional information is necessary.

12. K.S.A. 40-2442 also provides, in part:

(b) If any insurer issuing a policy of accident and sickness insurance fails to comply with subsection (a), such insurer shall pay interest at the rate of 1% per month on the amount of the claim that remains unpaid 30 days after the receipt of the claim. The interest paid pursuant to this subsection shall be included in any late reimbursement without requiring the person who filed the original claim to make any additional claim for such interest.

13. K.A.R. 40-1-34 states, in pertinent part,

40-1-34. Unfair claims settlement practices.

The national association of insurance commissioners' "unfair claims settlement practices model regulation," January 1981 edition, is hereby adopted by reference.

³ CLR failed to conduct timely investigation in accordance with K.S.A. 40-2442(a)(1) and (a)(2) in

"Unpaid Claims"	#4	Claim#	4201782
	#5		4566665
	#6		4595541
	#7		4605227
	#8		3446230
	#10		4362258
	#11		4808855
	#12		4823778
	#14		4739509
	#15		4929264
	#18		4722101

14. The Unfair Claims Settlement Practices Model Regulation establishes the Standard 2 in:

Section 7. Standards for Prompt Investigation of Claims

Every insurer shall complete investigation of a claim within thirty days after notification of claim, unless such investigation cannot reasonably be completed within such time.

15. The Unfair Claims Settlement Practices Model Regulation also establishes the Standard

3 in:

Section 8. Standards for Prompt, Fair and Equitable Settlements Applicable to All Insurers

A. Within 15 working days after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial.

...

C. If the insurer needs more time to determine whether a first party claim should be accepted or denied, it shall so notify the first party claimant within fifteen working days after receipt of the proofs of loss, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, forty-five days from the date of the initial notification and every forty-five days thereafter, send to such claimant a letter setting forth the reasons additional time is needed for investigation.

16. The Unfair Claims Settlement Practices Model Regulations further establishes the

Standard 4 in:

Section 6. Failure to Acknowledge Pertinent Communications

A. Every insurer, upon receiving notification of a claim shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgement shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer.

...

D. Every insurer, upon receiving notification of claim, shall promptly provide necessary claim forms, instructions and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this paragraph within ten working days of notification of a claim shall constitute compliance with Subsection A of this section.

17. K.S.A. 40-2215 provides, in part:

(a) No individual policy of accident and sickness insurance as defined in K.S.A. 40-2201 and amendments thereto shall be issued or delivered to any person in this state nor shall any application, rider or endorsement be used in connection therewith, until a copy of the form thereof and of the classification of risks and the premium rates pertaining thereto, have been filed with the commissioner of insurance.

18. K.S.A. 40-2,125 further provides:

(a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged in 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 . . . (1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation. . .

19. This examination reveals that, in handling of its claim investigation and settlement, CRL failed to meet the Standard 2 (“Investigations are conducted in a timely manner”) as required in K.A.R. 40-1-34, Sec. 7 & Sec. 8(C); K.S.A. 420-2442(a)(1), (a)(2) and (b)).

20. In handling the same investigation settlement, CRL also failed to comply with the Standard 3 (“Claims are resolved in a timely manner”) as set forth in K.A.R. 40-1-34 Sec. 8(A) and 8(C); K.S.A. 40-2442(a)(1), (a)(2) and (b)).

21. CRL further failed to comply with the Standard 4 (“The Company responds to claim correspondence in a timely manner”) as set forth in K.A.R. 40-1-34. Sec. 7 & sec. 8 and K.S.A. 40-2442(a)(1), (a)(2) and (b)).

Conclusion

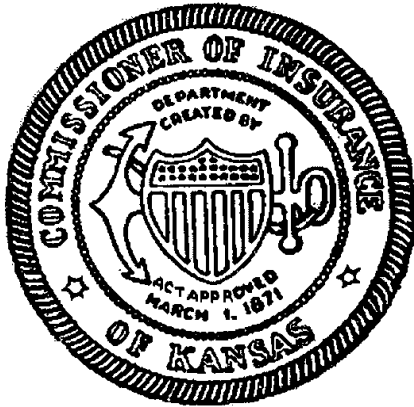
Based upon the Findings of Fact and Applicable Law enumerated in paragraphs #1 through #21 above,

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

- a. Central Reserve Life Insurance Company shall pay a monetary penalty, due and payable to Kansas Insurance Commissioner on or before the 14th day from the date of this order, in the amount of One Thousand and 00/100 Dollars (\$1,000.00) for violations of the Standard 2 set forth in K.A.R. 40-1-34, Sec. 7 & 8(C); K.S.A. 40-2442(a)(1), (a)(2) and (b).
- b. Central Reserve Life Insurance Company shall pay a monetary penalty, due and payable to Kansas Insurance Commissioner on or before the 14th day from the date of this order, in the amount of One Thousand and 00/100 Dollars (\$1,000.00) for violations of the Standard 3 set forth in K.A.R. 40-1-34, Sec. 8(A) & Sec. 8(C); K.S.A. 40-2442(a)(1), (a)(2) and (b).
- c. Central Reserve Life Insurance Company shall pay a monetary penalty, due and payable to Kansas Insurance Commissioner on or before the 14th day from the date of this order, in the amount of One Thousand and 00/100 Dollars (\$1,000.00) for violations of the Standard 4 set forth in K.A.R. 40-1-34, Sec. 6(A) & Sec. 6(D); K.S.A. 40-2442(a)(1), (a)(2) and (b).
- d. Central Reserve Life Insurance Company shall also review its procedures within 14 days upon receipt of this order to ensure all claim processes that are not concluded in accordance to K.S.A. 40-2442(a) will receive interest payment mandated by K.S.A. 40-2442(b).

e. The Report of Market Conduct Examination of Central Reserve Life Insurance Company, as of March 31, 2003, (Attachment A) is herein adopted in its entirety.

IT IS SO ORDERED THIS 13th DAY OF FEBRUARY 2004, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/ Sandy Praeger
Sandy Praeger
Commissioner of Insurance
BY:

/s/ John W. Campbell
John W. Campbell
General Counsel

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served the above and foregoing Order on this 13th day of February, 2004, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Ms. Sandra Pogozeleski
Central Reserve Life Ins. Co.
c/c Ceres Group
17800 Royalton Rd.
Strongsville, OH 44136

John W. Campbell
John W. Campbell, General Counsel

NOTICE OF RIGHTS

Central Reserve Life Insurance Company (“CRL”) is entitled to a hearing pursuant to K.S.A. §77-537, the Kansas Administrative Procedure Act. If CRL desires a hearing, the company must file a written request for a hearing with:

John W. Campbell, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

This request must be filed within fifteen (15) days from the date of service of this Order. If CRL requests a hearing, the Kansas Insurance Department will notify the company 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 same.

If a hearing is not requested in the time and manner stated above, this Order shall become effective as a Final Order upon the expiration of time for requesting a hearing, pursuant to K.S.A. §77-613. In the event that CRL files a petition for judicial review, pursuant to K.S.A. §77-613(e), the agency officer to be served on behalf of the Kansas Insurance Department is:

John W. Campbell, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

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The undersigned hereby certifies that he served the above and foregoing Notice of Rights on this 13th day of February, 2004, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

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