

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

In the Matter of the Proposed Exemption of)
Utica National Assurance Company) **Docket No. 3440-EX**

ORDER

Now comes on for disposition the request of Utica National Assurance Company ("Utica National") for an Order under Kansas Administrative Regulation ("K.A.R.") 40-3-53 exempting said entity from the on-line or electronic verification requirements of Kansas Statutes Annotated ("K.S.A.") 8-173.

FINDINGS OF FACT

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 8-173, K.S.A. 40-103, and K.A.R. 40-3-53.
2. On February 16, 2005, Utica National requested an exemption from the requirements of the K.S.A. 8-173 for its commercial automobile and personal automobile lines.
3. Utica National, an Ohio fire and casualty company, was admitted to write business in Kansas on October 2, 1997.
4. Utica National has less than 0.01 percent of the market share based on the company's commercial automobile lines.
5. Utica National has less than 0.01 percent of the market share based on the company's personal automobile lines.

CONCLUSIONS OF LAW

6. K.S.A. 8-173(d) states, in relevant part:

...Proof of insurance may also be verified on-line or electronically and the commissioner of insurance may require, by duly adopted rules and regulations, any motor vehicle liability insurance company authorized to do business in this state to provide verification of insurance in that manner...

7. K.A.R. 40-3-53(a) states, in relevant part:

Each motor vehicle liability insurer writing insurance in the state shall provide the secretary of revenue with verification of each insured's insurance on-line or electronically by January 1, 2005. An exemption from this requirement may be granted upon request for any company that has less than 0.01 percent of the market share based on that company's commercial or personal automobile insurance written premiums or that has stated its intent to leave the automobile insurance market pursuant to K.S.A. 40-2,123 and amendments thereto. The 0.01 percent threshold shall be based on the specific line of coverage for which the company is seeking this exemption.

Based upon the information enumerated in the Findings of Fact contained in paragraphs one through seven above, Utica National Assurance Company meets the requirements for exemption from the on-line or electronic verification requirements of its commercial automobile and personal automobile lines as required by K.S.A. 8-173 and K.A.R. 40-3-53.

IT IS THEREFORE, BY THE COMMISSIONER OF INSURANCE, ORDERED

THAT:

1. Utica National Assurance Company shall be exempt from the requirements of K.S.A 8-173 to provide on-line or electronic verification to the Kansas Secretary of Revenue for its commercial automobile and personal automobile lines.
2. The Commissioner of Insurance retains jurisdiction over this matter to issue any and all further Orders deemed appropriate or to take such further action as necessary to dispose of this matter.

NOTICE OF RIGHT TO ADMINISTRATIVE REVIEW

This order becomes final in 15 days if you do not request a hearing. You have the right to administrative review in accordance with the provisions set forth in the Administrative Procedure Act (K.S.A. 77-502, et seq., as amended). If you wish to appeal this decision, you must file a petition for review within 15 days. Your written petition for review shall be served upon:

John W. Campbell
General Counsel
Kansas Insurance Department
420 SW 9th Street
Topeka, Kansas 66612-1678.

IT IS SO ORDERED THIS 30th DAY OF March 2005, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/ Sandy Praeger _____
Sandy Praeger
Commissioner of Insurance

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

SUBMITTED AND APPROVED BY:

/s/ Deletria L. Nash _____
Deletria L. Nash
Attorney for Petitioner
Kansas Insurance Department

Certificate of Service

The undersigned hereby certifies that a true and correct copy of the above and foregoing Order was served by placing the same in the United States Mail, first class postage prepared, on this 30th day of March, 2005, addressed to the following:

Edward G. Smith
Compliance Officer
Internal Audit
Utica National Insurance Group
Box 530
Utica, New York 13503

/s/ Deletria L. Nash_____
Deletria L. Nash
Staff Attorney