

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

In the Matter of)
DAIRYLAND INSURANCE COMPANY) Docket No. 3471-MC

ORDER

Pursuant to the authority conferred to the Commissioner of Insurance in K.S.A. 40-222, Sandy Praeger, the duly elected, qualified Commissioner of Insurance hereby adopts the Kansas Insurance Department's September 31, 2004, Report of Market Conduct Examination of Dairyland Insurance Company (attached herein as Attachment A) by incorporating the same in its entirety with specific findings stated as follows:

Findings of Fact

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222.
2. The Kansas Insurance Department (hereinafter "KID") completed a market conduct examination of the Dairyland Insurance Company (hereinafter "DIC" or "the Company") in September 2004.
3. On or about March 18, 2005, the examiner-in-charge provided DIC with a draft of the written Report of Market Conduct Examination with request of the company's response by April 27, 2005, in written comments, additions, or acceptance as to any and all matters contained in the report.
4. DIC responded with written acceptance of the draft report on April 15, 2005. (See Attachment B).
5. The Kansas Commissioner of Insurance has since fully reviewed said Kansas report which is attached herein as Attachment A.

6. DIC failed to log compliant dispositions or the date of such dispositions in its complaint register during the relevant time period pertinent to the market examination.
7. DIC failed to file the driver classification underwriting rule defining how the company classifies the vehicle on a policy when there is more than one driver.
8. In two separate incidents, DIC failed to notify the insured that, although the two auto policy non-renewals were due to the agent no longer being appointed by the company, DIC was in fact willing to renew the said policies.

Applicable Law

9. K.S.A. 40-2404 states, in pertinent part:

The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

. . .

(10) *Failure to maintain complaint handling procedures.* Failure of any person, who is an insurer on an insurance policy, to maintain a complete record of all the complaints which it has received since the date of its last examination under K.S.A. 40-222, and amendments thereto; but no such records shall be required for complaints received prior to the effective date of this act. The record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of the complaints, the date each complaint was originally received by the insurer and the date of final disposition of each complaint. For purposes of this subsection, 'complaint' means any written communication primarily expressing a grievance related to the acts and practices set out in this section.

K.S.A. 40-2404(10).

10. K.S.A. 40-955 states, in pertinent part:

(a) Every insurer shall file with the commissioner . . . , every manual of classifications, rules and rates, every rating plan, policy form and every modification of any of the foregoing which it proposes to use. Every such filing shall indicate the proposed effective date and the character and extent of the coverage contemplated and shall be accompanied by the information upon

which the insurer supports the filings. A filing and any supporting information shall be open to public inspection after it is filed with the commissioner. An insurer may satisfy its obligations to make such filings by authorizing the commissioner to accept on its behalf the filings made by a licensed rating organization or another insurer. Nothing contained in this act shall be construed to require any insurer to become a member or subscriber of any rating organization.

K.S.A. 40-955(a).

11. K.S.A 40-276a states, in pertinent part:

(a) Any insurance company that denies renewal of an automobile liability insurance policy in this state shall give at least 30 days written notice to the named insured, at his last known address, or cause such notice to be given by a licensed agent of its intention not to renew such policy. No insurance company shall deny the renewal of an automobile liability insurance policy except in one or more of the following circumstances or as permitted in subsection (b):

...

(6) when any of the reasons specified as reasons for cancellation in K.S.A. 40-277 are existent, except that (A) when failure to renew is based upon termination of agency contract, obligation to renew will be satisfied if the insurer has manifested its willingness to renew, and (B) obligation to renew is terminated on the effective date of any other automobile liability insurance procured by the named insured with respect to any automobile designated in both policies.

Conclusion

Based upon the Findings of Fact and Applicable Law enumerated in paragraphs #1 through #11 above,

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

- a. The Kansas Insurance Department's September 30, 2004, Report of Market Conduct Examination of Dairyland Insurance Company is herein adopted in its entirety.

- b. DIC shall update its system of logging complaints into a register capturing all items required by K.S.A. 40-2404(10). Within thirty (30) days from the date of this Order, DIC is directed hereby to submit to KID a detailed plan for updating the said system with full statutory compliance and specific reference to complaint disposition and the date of such disposition. DIC has complied with this requirement.
- c. Within Ten (10) calendar days from the date of this Order, DIC shall immediately file its driver classification underwriting rule defining how the company classifies the vehicles on a policy when more than one driver is involved. Specifically, DIC is hereby directed to comply with this requirement regarding its underwriting classification rule stating: “[e]ach operator is rated separately. . . . If more than one single car policy and/or multi-car policies in household, rate highest rated operator on the vehicle developing the highest premium, second highest rated operator to second highest rated vehicle, etc.” DIC has complied with this requirement.
- d. Within thirty (30) days from the date of this Order, DIC shall update the wording on its non-renewal notices to include a phone number which the insured may call to obtain the name of a local agent in order to continue coverage if desired. DIC has complied with this requirement.

IT IS SO ORDERED THIS 13th DAY OF JULY, 2005, 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 14th day of July, 2005, by causing the same to be deposited in the United States Mail, registered mail with return-receipt requested postage prepaid, addressed to the following:

Mrs. Sue Phillips
Dir. of Privacy and Corporate compliance
Dairyland Insurance Company
1800 North Point Drive
Stevens Point, WI 54481

/s/ Hsingkan Chiang
Hsingkan Chiang, Staff Attorney

NOTICE OF RIGHTS

Dairyland Insurance Company. (“DIC”) is entitled to a hearing pursuant to K.S.A. §77-537, the Kansas Administrative Procedure Act. If DIC 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 DIC 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 DIC 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 14th day of July, 2005, by causing the same to be deposited in the United States Mail, registered mail with return-receipt requested postage prepaid, addressed to the following:

Mrs. Sue Phillips
Dir. of Privacy and Corporate compliance
Dairyland Insurance Company
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/s/ Hsingkan Chiang
Hsingkan Chiang, Staff Attorney