

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

**In the Matter of the Proposed Exemption of                    )**  
**Tokio Marine & Nichido Fire Insurance Co, Ltd.            )**         **Docket No. 3485-EX**  
**(U.S. Branch)    )**

**ORDER**

Now comes on for disposition the request of Tokio Marine & Nichido Fire Insurance Co, Ltd. (U.S. Branch) ("Utica") 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 September 1, 2005, Tokio Marine & Nichido requested an exemption from the requirements of the K.S.A. 8-173 for its commercial automobile and personal automobile lines.
3. Tokio Marine & Nichido, a New York fire and casualty company, was admitted to write business in Kansas on December 16, 1969.
4. Tokio Marine & Nichido has less than 0.01 percent of the market share based on the company's commercial automobile lines.
5. Tokio Marine & Nichido 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, Tokio Marine & Nichido Fire Insurance Co, Ltd. (U.S. Branch) 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. Tokio Marine & Nichido Fire Insurance Co, Ltd. (U.S. Branch) 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**

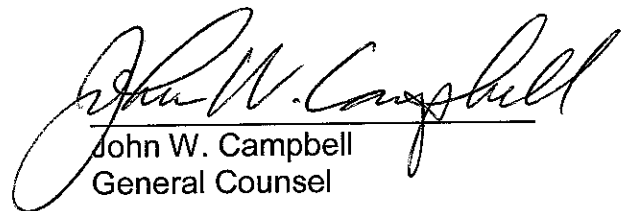
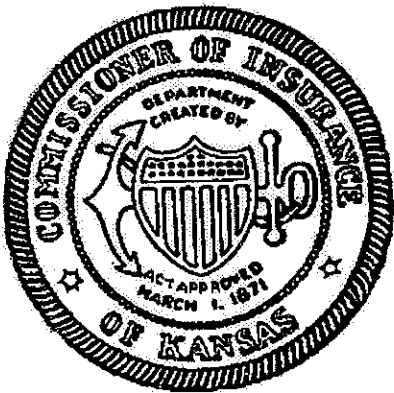
This order becomes final in 15 days if you do not request a hearing. You have the right to administrative review in accordance with the provisions set forth in the Administrative Procedure Act (K.S.A. 77-502, et seq., as amended). If you wish to appeal this decision, you must file a petition for review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

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

IT IS SO ORDERED THIS 20<sup>th</sup> DAY OF September 2005, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

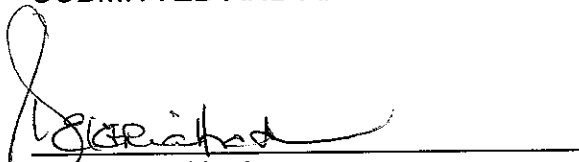


Sandy Praeger  
Commissioner of Insurance



John W. Campbell  
General Counsel

SUBMITTED AND APPROVED BY:

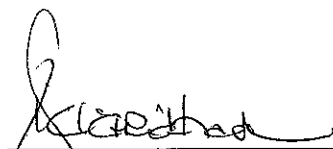


Deletria L. Nash  
Attorney for Petitioner  
Kansas Insurance Department

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 20<sup>th</sup> day of Sept, 2005, addressed to the following:

Sal Eterno  
Assistant Vice President  
Statistical & Bureau Reporting  
Tokio Marine & Nichido Fire Insurance Co, Ltd. (U.S. Branch)  
230 Park Avenue  
New York, New York 10169

  
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Deletria L. Nash  
Staff Attorney