

BEFORE THE COMMISSIONER OF INSURANCE  
OF THE STATE OF KANSAS

**FINAL ORDER**  
Effective: 06/26/06

In the Matter of  
EXECUTIVE RISK INDEMNITY

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Docket No. 3553-SO

**SUMMARY ORDER**

Pursuant to the authority granted to the Commissioner of Insurance by Kansas Statutes Annotated (“K.S.A.”) 40-2,125,

I, Sandy Praeger, the duly elected and qualified Commissioner of Insurance of the State of Kansas, hereby make the following findings of fact, conclusions of law, and order, to wit:

**Findings of Fact**

1. Executive Risk Indemnity (“Executive Risk”) is a stock insurance company authorized to transact the business of insurance in the State of Kansas with its office located at 15 Mountain View Road, Warren, NJ 07059 and is subject to statutes regulating the business of insurance.

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

3. On March 18, 2006, the University of Kansas Hospital Authority (“the insured”), by and through its counsel, Frank Ross, Jr. of Polsinelli Shalton Welte Suelthaus PC, made a demand for payment to its insurer, Executive Risk, for reimbursement of defense expenses incurred and paid by the insured.

4. On April 19, 2006, Frank Ross requested assistance from the Kansas Insurance Department (“KID”).

5. On April 27, 2006, James Welch, Director, Consumer Assistance Division at KID, requested information pertaining to the claim from Executive Risk.

6. On May 18, 2006, Richard Falcigno of the Chubb Group, called KID and requested an extension.

7. On May 19, 2006, KID denied the request for an extension.

### **Conclusions of Law**

1. K.S.A. 40-2,125 provides, in relevant part,

b) If any person fails to file any report or other information with the commissioner as required by statute or fails to respond to any proper inquiry of the commissioner, the commissioner, after notice and opportunity for hearing, may impose a penalty of up to \$500 for each violation or act, along with an additional penalty of up to \$100 for each week thereafter that such report or other information is not provided to the commissioner.

2. K.A.R. 40-1-34 provides, in relevant part,

Section 6B Every insurer, upon receipt of any inquiry from the insurance department respecting a claim shall, within fifteen working days of receipt of such inquiry, furnish the department with an adequate response to the inquiry.

Based upon the information enumerated in the Findings of Fact contained in paragraphs three (3) through seven (7) above, it appears that Executive Risk Indemnity failed to respond to a proper inquiry of the Commissioner within fifteen working days of receipt of the inquiry in violation of K.S.A. 40-2,125(b) and K.A.R. 40-1-34, Section 6B.

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

1. Executive Risk Indemnity is fined five hundred dollars (\$500) for failing to respond to a proper inquiry of the Commissioner within fifteen working days of receipt of the inquiry in violation K.S.A. 40-2,125(b) and K.A.R. 40-1-34, Section 6B.

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 19th DAY OF May, 2006, 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 Summary Order was served by placing the same in the United States Mail, first class postage prepared, on this   19th   day of   May  , 2006 addressed to the following:

Henry G. Gulick, Secretary  
Executive Risk Indemnity  
c/o CT Corporation Service Company  
1013 Centre Road  
Wilmington, DE 19805

Henry G. Gulick, Secretary  
Executive Risk Indemnity  
1015 Mountain View Road  
Warren, NJ 07059

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Deletria L. Nash  
Staff Attorney