

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

In the Matter of )  
**Metropolitan Property and** )  
**Casualty Insurance Company** ) Docket No. 3583-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 June 30, 2005 Report of Market Conduct Examination of Metropolitan Property & Casualty 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 Metropolitan Property & Casualty Insurance Company (hereinafter “M P&C” or “the Company”) in June 2005.
3. On or about February 24, 2006, the examiner-in-charge provided M P&C with a draft of the written Report of Market Conduct Examination with notice advising the company regarding its opportunity to prepare and submit to KID written comments, additions, or acceptance with respect to any and all matters contained in the report by April 7, 2006.

4. M P&C responded with written comments regarding the draft report on April 6, 2006. (*See Attachment B*).
5. The Kansas Commissioner of Insurance has since fully reviewed said Kansas report which is adopted herein as Attachment A.
6. M P&C's Ultra and Plus homeowners policies read, in pertinent part: "if the amount payable for property damage plus the debris removal is more than our limit of liability for the covered property, we will pay up to an additional 10% of that limit for debris removal." M P&C's policies call for the company to cover the dwelling, Coverage A, up to a limit of liability as shown in the Dec page. Debris removal is listed on page 5 of M P&C's Ultra and Plus contracts as an Additional Coverage. The M P&C policies do indicate that "we will pay up to an additional 10% of that limit for debris removal."
7. Debris removal is an additional amount above the Coverage A limit. Neither M P&C's Ultra and Plus homeowners policies nor M P&C's rating procedures call for the Company to increase the Coverage A limit on the Dec page an additional 5-10%. Debris removal is automatically included as an additional amount of coverage which is built into the policies' language. If M P&C desires to increase Coverage A on its Dec page by a certain percentage to include for debris removal, it must re-file its homeowners program with KID.
8. M P&C was applying this practice to all homeowners in the Company's Ultra and Plus Programs.

## Applicable Law

9. K.S.A. 40-2407 states:

(a) If, after such hearing, the commissioner shall determine that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice, the commissioner shall render an order requiring such person to cease and desist from engaging in such method of competition, act or practice and if the act or practice is a violation of K.S.A. 40-2404 and amendments thereto, the commissioner may in the exercise of discretion order any one or more of the following:

(1) Payment of a monetary penalty of not more than \$1,000 for each and every act or violation, but not to exceed an aggregate penalty of \$10,000, unless the person knew or reasonably should have known such person was in violation of this act, in which case the penalty shall be not more than \$5,000 for each and every act or violation, but not to exceed an aggregate of \$50,000 in any six-month period;

10. K.S.A. 40-955(a) and (f) state, in pertinent part:

(a) Every insurer shall file with the commissioner...every manual of classifications, rules and rates, every rate 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 filing by authorizing the commissioner to accept on its behalf the filings made by a licensed rating organization or another insurer.

(f) No insurer shall make or issue a contract or policy except in accordance with filings which have been filed or approved for such insurer as provided in this act.

## Conclusion

Based upon the Findings of Fact and Applicable Law enumerated in paragraphs #1 through #10 above:

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

- a. The Kansas Insurance Department's June 30, 2005, Report of Market Conduct Examination of M P&C is herein adopted in its entirety.
- b. M P&C's practice of exceeding the Coverage A limit of liability stated in the M P&C Ultra and Plus homeowners policies by providing an additional 10% of the Coverage for debris removal constitutes a violation of K.S.A. 40-955(a) and K.S.A. 40-955(f). Debris removal is currently included in M P&C's Ultra and Plus homeowners policies on page 5 as an Additional Coverage.
- c. M P&C shall stop including debris removal as part of its calculation in determining the Coverage A liability limit for its Ultra and Plus homeowners programs. In the alternative, M P&C shall re-file its homeowners program with the Kansas Insurance Department prior to increasing the Coverage A limit of liability in the M P&C Ultra and Plus homeowners policies pursuant to K.S.A. 40-955(a) and K.S.A. 40-955(f).
- d. Pursuant to K.S.A. 40-2407(a)(1) M P&C shall pay a monetary penalty, due and payable to Kansas Insurance Commissioner on or before the 14<sup>th</sup> day from the date of this order, in the amount of Five Thousand Dollars and 00/100 (\$5,000.00) for violation of above-stated statutes.

IT IS SO ORDERED THIS 27th DAY OF September 2006, 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 27th day of September, 2006, by causing the same to be deposited in the United States Mail, registered mail with return-receipt requested postage prepaid, addressed to the following:

Robert I. Rouse  
Director and Counsel  
700 Quaker Lane, PO Box 350  
Warwick, RI 02887

/s/ Zachary J.C. Anshutz  
Zachary J.C. Anshutz, Staff Attorney

### **NOTICE OF RIGHTS**

Metropolitan Property and Casualty Insurance Company ("M P&C") is entitled to a hearing pursuant to K.S.A. §77-537, the Kansas Administrative Procedure Act. If M P&C 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. 9<sup>th</sup> Street  
Topeka, Kansas 66612

This request must be filed within fifteen (15) days from the date of service of this Order. If M P&C 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 M P&C 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. 9<sup>th</sup> Street  
Topeka, Kansas 66612

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Director and Counsel  
700 Quaker Lane, PO Box 350  
Warwick, RI 02887

/s/ Zachary J.C. Anshutz  
Zachary J.C. Anshutz, Staff Attorney