

BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS

FINAL ORDER
Effective: 011/10/2006

In the Matter of National Life
Insurance Company

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Docket No. 3585-SO

SUMMARY ORDER

Pursuant to the authority granted to the Commissioner of Insurance by Kansas Statutes Annotated (“K.S.A.”) 40-253,

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. National Life Insurance Company (“National Life”) is a stock insurance company authorized to transact the business of insurance in the State of Kansas with its office located at One National Life Drive, Montpelier, VT 05604, 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 January 1, 2005, the Agents Division of the Kansas Insurance Department (“KID”) sent an Annual Renewal Statement, invoice number 275682, in the amount of \$3,045 to National Life for renewal fees for license year January 1, 2005 to December 31, 2005 for 350 resident agents, 9 resident agencies, 228 nonresident agents, and 22 nonresident agencies.

4. National Life tendered check number 00852896 dated February 18, 2005 to the Department in the amount of \$3,045.

5. On January 1, 2005, KID sent a Monthly Appointment Billing Statement, invoice number 276631, in the amount of \$15 to National Life for 1 resident agent, 1 resident agency, and 1 late agency addition.

6. Attached to the billing was an Agent/Agency Certifications listing agents certified during the billing period.

7. In the cover letter accompanying the Monthly Appointment Billing Statement, KID stated, in relevant part, "Payment without comment confirms that each certification is valid."

8. National Life tendered check number 00851833 dated February 8, 2005 to the Department in the amount of \$15.

9. Attached to the billing was an Agent/Agency Certifications listing agents certified during the billing period.

10. On February 1, 2005, KID sent a Monthly Appointment Billing Statement, invoice number 277866, in the amount of \$15 to National Life for 2 nonresident agents and 1 resident agent.

11. Attached to the billing was an Agent/Agency Certifications listing agents certified during the billing period.

12. In the cover letter accompanying the Monthly Appointment Billing Statement, KID stated, in relevant part, "Payment without comment confirms that each certification is valid."

13. National Life tendered check number 00854575 dated March 8, 2005 to the Department in the amount of \$15.

14. On March 1, 2005, KID sent a Monthly Appointment Billing Statement, invoice number 279377, in the amount of \$20 to National Life for 3 resident agents and 1 nonresident agent.

15. Attached to the billing was an Agent/Agency Certifications listing agents certified during the billing period.

16. In the cover letter accompanying the Monthly Appointment Billing Statement, KID stated, in relevant part, "Payment without comment confirms that each certification is valid."

17. National Life tendered check number 00858202 dated April 8, 2005 to the Department in the amount of \$20.

18. On April 1, 2005, KID sent a Monthly Appointment Billing Statement, invoice number 280073, in the amount of \$860 to National Life for 110 nonresident agents, 61 resident agents, and 1 nonresident agency.

19. Attached to the billing was an Agent/Agency Certifications listing agents certified during the billing period.

20. In the cover letter accompanying the Monthly Appointment Billing Statement, KID stated, in relevant part, "Payment without comment confirms that each certification is valid."

21. National Life tendered check number 00861222 dated May 9, 2005 to the Department in the amount of \$860.

22. On August 1, 2005, KID sent a Monthly Appointment Billing Statement, invoice number 285535, in the amount of \$270 to National Life for 18 nonresident agents, 34 resident agents, and 2 nonresidential agencies.

23. Attached to the billing was an Agent/Agency Certifications listing agents certified during the billing period.

24. In the cover letter accompanying the Monthly Appointment Billing Statement, KID stated, in relevant part, "Payment without comment confirms that each appointment is valid."

25. National Life tendered check number 00873286 dated September 9, 2005 to the Department in the amount of \$270.

26. Attached to the billing was an Agent/Agency Certifications listing agents certified during the billing period.

27. On September 1, 2005, KID sent a Monthly Appointment Billing Statement, invoice number 286262, in the amount of \$5 to National Life for 1 nonresident agent.

28. In the cover letter accompanying the Monthly Appointment Billing Statement, KID stated, in relevant part, "Payment without comment confirms that each appointment is valid."

29. National Life tendered check number 00876791 dated October 5, 2005 to the Department in the amount of \$5.

30. Attached to the billing was an Agent/Agency Certifications listing agents certified during the billing period.

31. On October 1, 2005, KID sent a Monthly Appointment Billing Statement, invoice number 288261, in the amount of \$10 to National Life for 1 resident agent and 1 nonresident agent.

32. Attached to the billing was an Agent/Agency Certifications listing agents certified during the billing period.

33. In the cover letter accompanying the Monthly Appointment Billing Statement, KID stated, in relevant part, "Payment without comment confirms that each appointment is valid."

34. National Life tendered check number 00879722 dated November 9, 2005 to the Department in the amount of \$10.

35. On November 1, 2005, KID sent a Monthly Appointment Billing Statement, invoice number 288971, in the amount of \$295 to National Life for 35 resident agents, 22 nonresident agents, and 2 nonresident agencies.

36. Attached to the billing was an Agent/Agency Certifications listing agents certified during the billing period.

37. In the cover letter accompanying the Monthly Appointment Billing Statement, KID stated, in relevant part, "Payment without comment confirms that each appointment is valid."

38. National Life tendered check number 00883198 dated December 2, 2005 to the Department in the amount of \$295.

39. Attached to the billing was an Agent/Agency Certifications listing agents certified during the billing period.

40. On December 1, 2005, KID sent a Monthly Appointment Billing Statement, invoice number 289699, in the amount of \$625 to National Life for 66 resident agents, 58 nonresident agents, and 1 nonresident agency.

41. Attached to the billing was an Agent/Agency Certifications listing agents certified during the billing period.

42. In the cover letter accompanying the Monthly Appointment Billing Statement, KID stated, in relevant part, "Payment without comment confirms that each appointment is valid."

43. National Life tendered check number 00886836 dated January 6, 2006 to the Department in the amount of \$625.

44. On the Year 2005 Annual Premium Tax Statement Retaliatory Summary Sheet, National Life included Line 8a. Resident Agent Certification Fees, Column 2 Kansas Basis as \$2,760 and Column 3 Company's Home State Basis for Kansas Companies as \$5,550.

45. On the Year 2005 Annual Premium Tax Statement Retaliatory Summary Sheet, National Life included Line 8b. Resident Agent Certification Fees, Column 2 Kansas Basis as \$2,205 and Column 3 Company's Home State Basis for Kansas Companies as \$3,780.

46. Based on their 2005 Annual Premium Tax Statement Retaliatory Summary Sheet, National Life remitted payment for taxes.

47. On July 31, 2006, KID advised National Life that it understood that Vermont charges \$60 per agent for original appointments and \$60 per agent for biennial renews.

48. Based on Vermont's charges to Kansas companies, KID advised National Life on July 31, 2006 that Line 8a Column 3 should have totaled \$33,120 for 202 new resident agents and 350 resident agent renewals.

49. Based on Vermont's charges to Kansas companies, KID advised National Life on July 31, 2006 that Line 8b Column 3 should have totaled \$24,460 for 213 new nonresident agents and 228 nonresident agent renewals.

50. Based on Vermont's charges to Kansas companies, KID advised National Life on July 31, 2006 that Line 9a Column 3 should have totaled \$600 for 1 new resident agency and 9 resident agency renewals.

51. Based on Vermont's charges to Kansas companies, KID advised National Life on July 31, 2006 that Line 9b Column 3 should have totaled \$1,680 for 6 new nonresident agencies and 9 nonresident agency renewals.

52. On August 7, 2006, National Life advised KID that Vermont does not appoint corporations (agencies), therefore, there is no retaliatory fee on this.

53. On August 7, 2006, KID revised the 2005 Annual Premium Tax Statement Retaliatory Summary Sheet for National Life to exclude \$600 for 1 new resident agency and 9 resident agency renewals and \$1,680 for 6 new nonresident agencies and 9 nonresident agency renewals.

54. KID provided a Year 2005 State of Kansas Tax Remittance Statement Recalculation Worksheet and Payment Method for Amended Tax Form Payments/ Refunds to National Life with a new balance of \$30,285.66.

Conclusions of Law

55. Kansas Statutes Annotated ("K.S.A.") 40-252 states, in relevant part:

Every insurance company... doing business in this state shall pay to the commissioner of insurance fees and taxes specified in the following schedule:

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Insurance companies organized under the laws of any other state, territory or country: ...all such companies shall pay \$5 for each agent certified by the company, except as otherwise provided by law...

56. K.S.A. 40-253 states, in relevant part:

Whenever the existing or future laws of any other state or country shall require from insurance companies or fraternal benefit societies organized under the laws of this state, applying to do business in such other state or country,... any payment for taxes, fines, penalties, certificates of authority, licenses, fees,... greater than the amount required for such purpose from insurance companies or agents of other states by the then existing laws of this state, then, and in every case, all companies and agents of any such state or country, doing business in this state shall... pay to the commissioner of insurance for taxes, fines, penalties, certificates of authority, licenses, fees,... an amount equal to the amount of such charges and payments imposed by the laws of such other state or country upon the companies of this state and the agents thereof...

57. K.S.A. 2005 Supp. 40-4912 states, in relevant part:

(a) Any company authorized to transact business in this state may...appoint such insurance agent as the insurance agent of the company under the license in effect for the insurance agent... A nonrefundable appointment or certification fee set forth in K.S.A. 40-252, and amendments thereto, shall be paid in accordance with the billing procedures established by the commissioner. Such procedures shall require payment of the fees annually, based on the number of insurance agents appointed during the calendar year preceding the return. The certification fees required by K.S.A. 40-252, and amendments thereto, shall be due for all insurance agents appointed by the company during the preceding calendar year...

(b) Certification of other than an individual insurance agent will automatically include each licensed insurance agent who

is an officer, director, partner, employee or otherwise legally associated with the corporation, association, partnership or other legal entity appointed by the company. The required annual certification fee shall be paid for each licensed insurance agent certified by the company and the prescribed reporting form shall be returned at the same time the company files its tax returns as required by K.S.A. 40-252, and amendments thereto...

58. Based on the information contained in paragraphs three (3) through fifty-four (55) above, National Life Insurance Company is required to pay retaliatory taxes in the amount of \$60.00 for each resident agent and nonresident agent in accordance with K.S.A. 40-253.

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

1. National Life Insurance Company shall remit to the Kansas Insurance Department, within 15 working days from the date of this order, \$30,285.66 that is currently outstanding for retaliatory charges for the Year 2005 in accordance with the Year 2005 State of Kansas Tax Remittance Statement Recalculation Worksheet and Payment Method for Amended Tax Form Payments/ Refunds.

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 Hearing or Appeal

You are entitled to a hearing pursuant to K.S.A. § 77-537, the Kansas Administrative Procedure Act. If you desire a hearing, you 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) business days from the date of service of this Order. If you request a hearing, the Kansas Insurance Department will notify you 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, unless a petition for judicial review is filed. In the event that you file 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.

IT IS SO ORDERED THIS 20th DAY OF OCTOBER, 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

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 20th day of October, 2006, addressed to the following:

Fred S. Campbell-Mohn
Corporate Tax Counsel
National Life Insurance Company
One National Life Drive
Montpelier, VT 05604

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