

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

In the Matter of)
State Automobile Mutual) Docket No. 3610-SO
Insurance Company)

SUMMARY ORDER

(Pursuant to K.S.A. 40-955 and K.S.A. 40-2,125)

Pursuant to the authority conferred on the Commissioner of Insurance by K.S.A. 40-955 and K.S.A. 40-2,125 and by invoking K.S.A. 77-537, the Commissioner hereby admonishes and assesses penalty against State Automobile Mutual Insurance Company (“State Automobile”) for violation of the applicable provisions of the Kansas insurance code.

Findings of Fact

1. State Automobile Mutual Insurance Company, located at 518 E. Broad Street, Columbus, Ohio 43215, has been authorized to transact and continuously engaged in transacting insurance business in the State of Kansas since August 10, 1939.
2. On September 29, 2006, State Automobile submitted a SERFF filing for review by the Kansas Insurance Department (“KID”).
3. State Automobile requested an effective date and an implementation date of October 19, 2006.
4. Pursuant to a telephone conversation with Doug Griffith, State Automobile Representative, it was determined the Rate filing was implemented on October 19, 2006; approximately three (3) months prior to KID approval.
5. The State Automobile SERFF filing was approved by KID on January 26, 2007.

Applicable Law

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 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.
- (b) Any other rate filing, except personal lines filings, shall become effective on filing or any prospective date selected by the insurer, subject to the commissioner disapproving the same if the rates are determined to be inadequate, excessive, unfairly discriminatory, or otherwise fails to meet the requirements of this act. Personal lines rate filing shall be on file for a waiting period of 30 days before becoming effective, subject to the commissioner disapproving the same if the rates are determined to be inadequate, excessive, unfairly discriminatory or otherwise fail to meet the requirements of this act. The term “personal lines” shall mean insurance for noncommercial automobile, homeowners, dwelling fire-and-renters insurance policies, as defined by rules and regulations. A filing complies with this act unless it is disapproved by the commissioner within the waiting period or pursuant to subsection (e).

K.S.A. 40-2,125 authorizes:

- (a) If the commissioner determines after notice and opportunity for a hearing that a person has engaged or is engaged in any act or practice constituting a violation of any provision of the Kansas insurance statutes or any rule and regulation or order thereunder, 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, unless the person knew or should have known such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder, in which case the penalty shall be not more than \$2,000 for each and every act or violation.

Conclusions of Law

Based on the Findings of Fact enumerated in Paragraphs #1 through #5 and the Applicable Law,
THE COMMISSIONER OF INSURANCE FINDS:

1. On September 29, 2006, State Automobile Mutual Insurance Company (“State Automobile”) submitted a SERFF filing for approval by the Kansas Insurance Department (“KID”).
2. State Automobile requested an effective date and an implementation date of October 19, 2006 for the SERFF filing.
3. Pursuant to a telephone conversation with Doug Griffith, State Automobile Representative, it was determined the Rate filing was implemented by State Automobile on October 19, 2006.
4. KID did not approve the SERFF filing until January 26, 2007.
5. State Automobile’s implementation of the Rate Filing prior to receiving KID approval constitutes a violation of K.S.A. 40-955.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE:

State Automobile’s actions in implementing the Rate Filing on October 19, 2006 prior to receiving approval via a SERFF filing constitutes a violation of K.S.A. 40-955. Therefore, State Automobile shall pay a monetary penalty of One Thousand Dollars and no cents (\$1,000.00), due and payable to the Kansas Insurance Commissioner on or before the 14th day from the date of this Order.

NOTICE OF RIGHTS

State Automobile Mutual Insurance Company (“State Automobile”) is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If State Automobile desires a hearing, it must file a written request for 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 State Automobile requests a hearing, the Kansas Insurance Department will notify the same of the time and place of the hearing and information on the procedures, rights of representation, and other rights of parties relating to the conduct of the hearing, before commencement of the hearing.

If a hearing is not requested in the time and manner stated above, this Summary 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 State Automobile 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

IT IS SO ORDERED THIS 5th DAY OF FEBRUARY, 2007, 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 Summary Order on this 5th day of February, 2007, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Mr. Robert P. Restrepo
President
State Automobile Mutual Insurance Company
518 E. Broad St.
Columbus, OH 43215

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