

BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS

FINAL ORDER

Effective: 4-09-07

IN THE MATTER OF)
SECURITY ALARM AND MONITORING)
ASSOCIATION, INC.)

Docket No. 3604-SO

SUMMARY ORDER

Pursuant to the authority granted to the Commissioner of Insurance by Kansas Statutes Annotated (“K.S.A.”) 40-2,125 and 40-4116,

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. Security Alarm & Monitoring Association, Inc. (“Security Alarm”) is a risk purchasing group with its office located at 1250 Wappco Creek Drive, Charleston, South Carolina 29412 and is subject to statutes regulating risk purchasing groups.

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. Security Alarm did not provide notice to the Commissioner of its intent to do business in the state of Kansas.

4. On or about June 29, 2005, Security Alarm entered into a contract on a risk located in Wichita, Kansas.

5. Security Alarm placed the risk through a non-admitted insurer.
6. On or about July 5, 2005, Security Alarm collected \$1,835.00 gross premium.

Conclusions of Law

1. Kansas Statutes Annotated ("K.S.A.") 40-2,125 states, in relevant part:
 - (a) If the commissioner determines after notice and opportunity for a hearing that any person has engaged or is engaging in any act or practice constituting a violation of any provision of 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 reasonably 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;
 - (3) that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commissioner will carry out the purposes of the violated or potentially violated provision.
 - (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.S.A. 40-4116 states, in relevant part:
 - (a) A purchasing group which intends to do business in this state shall furnish notice to the commissioner which shall:

- (1) Identify the state in which the group is domiciled;
- (2) specify the lines and classifications of liability insurance which the purchasing group intends to purchase;
- (3) identify the insurance company from which the group intends to purchase its insurance and the domicile of such company;
- (4) identify the principal place of business of the group; and
- (5) provide such other information as may be required by the commissioner to verify that the purchasing group is qualified under subsection (j) of K.S.A. 40-4101 and amendments thereto.

The notice submitted to the commissioner shall be accompanied by a notification fee of \$250.

3. K.S.A. 40-4117 states, in relevant part:

A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed agent or broker acting pursuant to the surplus lines laws and regulations of such state.

4. K.S.A. 40-4118 states, in relevant part:

The commissioner is authorized to make use of any of the powers established under the insurance code of this state to enforce the laws of this state so long as those powers are not specifically preempted by the product liability risk retention act of 1981, as amended by the risk retention amendments of 1986. Such authorization includes, but is not limited to, the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders and impose penalties...

Based upon the information enumerated in the Findings of Fact contained in paragraphs three (3) through six (6) above, it appears that Security Alarm & Monitoring Association, Inc. failed to provide notice advising the Commissioner of its intent to place risks in the state of Kansas in violation of K.S.A. 40-4116 and

that Security Alarm & Monitoring Association, Inc. purchased insurance from an insurer not admitted in the State of Kansas in violation of K.S.A. 40-4117.

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

1. Security Alarm & Monitoring Association, Inc. is fined one hundred dollars (\$100) for failing to file notice with the Commissioner of Insurance in violation K.S.A. 40-4116.

2. Security Alarm & Monitoring Association, Inc. is fined one hundred dollars (\$100) for purchasing insurance from an insurer not admitted in the State of Kansas in violation of K.S.A. 40-4117.

3. Security Alarm & Monitoring Association, Inc. is ordered to submit its notice to the commissioner and a notification fee of \$250 pursuant to K.S.A. 40-4116.

4. Security Alarm & Monitoring Association, Inc. is ordered to Cease and Desist from entering contracts upon risks located in Kansas through risk purchasing groups not registered in the state of Kansas.

5. Security Alarm & Monitoring Association, Inc. is ordered to comply with K.S.A. 40-4116.

6. 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

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) 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. 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 MARCH, 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

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 March, 2007 addressed to the following:

Security Alarm & Monitoring Association, Inc.
1250 Wappco Creek Drive
Charleston, South Carolina 29412

 /s/ Deletria L. Nash
Deletria L. Nash
Assistant General Counsel