

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

In the Matter of)	
Farm Bureau Mutual)	Docket No. 3636-CO
Insurance Company)	

CONSENT ORDER

Farm Bureau Mutual Insurance Company (“Farm Bureau”) wishes to resolve this matter without formal adjudicative proceedings by entering into this Consent Order. The Commissioner of Insurance (“Commissioner”) hereby makes the following findings of fact, conclusions of law, and order, to-wit:

Findings of Fact

The Commissioner has been shown the following facts:

1. Farm Bureau Mutual Insurance Company (“Farm Bureau”) located at 5400 University Avenue, West Des Moines, Iowa 50266, has been authorized to transact and continuously engaged in transacting insurance business in the State of Kansas since December 23, 2002.
2. On September 21, 2006, the Kansas Insurance Department (“KID”) received a complaint from Mr. Jacob Graybill, Attorney (“Mr. Graybill”) on behalf of his client, Janice Meliza (“Ms. Meliza”) against Farm Bureau.
3. Ms. Meliza’s complaint arises out of Farm Bureau’s conduct following an automobile accident involving Ms. Meliza’s son on May 25, 2006.
4. Ms. Meliza’s son was driving a 2006 Chevrolet Cobalt at the time of the accident.

5. Pursuant to the automobile insurance policy (No. 0000000007348373) (“The Policy”), in effect at the time of the accident, Farm Bureau elected to repair Ms. Meliza’s automobile.
6. The repairs were performed by Ferrel’s Body Shop (“Ferrel’s) in Cheney, Kansas.
7. The repairs performed on Ms. Meliza’s automobile were not satisfactory, were incomplete, and did not restore the vehicle to its pre-collision condition.
8. Ms. Meliza attempted to make arrangements to obtain possession of her partially restored and repaired automobile from Ferrel’s.
9. Ferrel’s refused to release the vehicle to Ms. Meliza without payment for the repairs completed.
10. Farm Bureau refused to issue payment to Ferrel’s without first obtaining a Repair Order - Release – Claim Number – Authorization of Payment – Subrogation Receipt (“The Release”) from Ms. Meliza.
11. The Release states, in pertinent part:
 - a. The _____ (Comprehensive or Collision) loss or damage which occurred on the _____ day of _____ has been repaired to my/our entire satisfaction under Policy No. 7348373 and we do hereby authorize said FARM BUREAU MUTUAL INSURANCE COMPANY/KFB INSURANCE COMPANY, INC. to pay costs of repairs set forth in (3) above to the above listed repairman and in consideration of said payment in the amount of _____ to said repairman...
 - b. In receipt of the same or by payments to a repairman, **I/We do hereby release and forever discharge said Insurance Company from any further claims and demands for loss or damage under said policy arising out of said loss** and I/We do hereby subrogate said Company to all the rights, claims, and interest which the undersigned may have

against any party, person, persons or corporation liable for the loss mentioned above, and authorizes the said Company to sue, compromise, or settle, in the undersigned's name or otherwise, all such claims and to execute and sign releases and acquaintances, and endorse checks or drafts given to settlement of such claims in the name of the undersigned with the same force and effect as if the undersigned executed or endorsed them. (emphasis added).

12. Ms. Meliza refused to sign The Release and retained Mr. Graybill to pursue her claim.
13. In response to Mr. Graybill's complaint, James Welch ("Mr. Welch") sent an October 30, 2006 letter to Mr. Jack Hollowell ("Mr. Hollowell") of Farm Bureau requesting the number of times The Release was used in Kansas since January 10, 2003.
14. On November 8, 2006, Mr. Hollowell responded to Mr. Welch's letter stating Farm Bureau believed The Release was used in a majority of the 60,872 Kansas collision and comprehensive claims handled by Farm Bureau during the period of January 1, 2003 to November 2006.
15. Farm Bureau filed a Request for Hearing in this matter and representatives of Farm Bureau have met with KID staff to provide additional information for consideration. Farm Bureau denies that The Release was used for any improper purposes, but to resolve this matter at this time without formal adjudicative proceedings, is not contesting these Findings and has consented to this Consent Order.

Applicable Law

K.A.R. 40-1-34 provides, in pertinent part:

- Section 1. Section 4(9) of the Unfair Trade Practices Act prohibits insurers doing business in the state from engaging in unfair claims

settlement practices and provides that if any insurer performs any of the acts or practices proscribed by that section with such frequency as to indicate a general business practice, then those acts shall constitute an unfair or deceptive act or practice in the business of insurance.

Section 2. This regulation defines certain minimum standards which, if violated with such frequency as to indicate a general business practice, will be deemed to constitute unfair claims settlement practices...

Section 5. **Misrepresentation of Policy Provisions**

E. No insurer shall request a first party claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment.

K.S.A. 40-2,125 states, in pertinent 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 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 not be more than \$2,000 for each and every act or violation;

Conclusions of Law:

Based on upon the Findings of Fact in Paragraphs #1 through #15 and Applicable

Law enumerated above:

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

- 1. The Commissioner has jurisdiction over the subject matter of this proceeding, and this proceeding is held in the public interest.

2. Based on the information contained in paragraphs #1 through #15 and the Applicable Law above, it appears that Farm Bureau violated the provisions of K.A.R. 40-1-34, Sec. 5(e).
3. Pursuant to K.S.A. 40-2,125(a)(1) Farm Bureau shall pay an administrative penalty in the amount of FIVE HUNDRED DOLLARS AND 00/100 (\$500.00), due and payable to the Commissioner of Insurance on or before the 14th day from the date of this Order.
4. Farm Bureau shall cease and desist the use of the offensive language in The Release as established in Paragraph (11) above. Farm Bureau shall revise The Release to include language no longer in violation of K.A.R. 40-1-34 Sec. 5(e) or any other provisions of the Kansas Statutes Annotated or Kansas Administrative Regulations.
5. 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 RIGHTS

Farm Bureau Mutual Insurance Company (“Farm Bureau”) is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedures Act. If Farm Bureau 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. 9th Street
Topeka, Kansas 66612

This request must be filed within fifteen (15) days from the date of service of this Order. If Farm Bureau requests a hearing, the Kansas Insurance Department will notify the company of the time and place of the hearing and information on procedures, right of representation, and other rights of parties relating to the conduct of the hearing, before commencement of the same.

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 that Farm Bureau 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 24th DAY OF JULY, 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/ Zachary J.C. Anshutz
Zachary J.C. Anshutz
Staff Attorney

Approved By:

/s/ David Hanson
David Hanson
Attorney for Farm Bureau

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served the above and foregoing Consent Order and Notice of Rights on this 24th day of July , 2007, by causing the same to be deposited in the United States Mail, first-class mail postage prepaid, addressed to the following:

Mr. Jack Hollowell
District Claims Manager
Farm Bureau Insurance Claims Office
7421 E. 21st Street
Wichita, KS 67206

Mr. David Hanson, Attorney
800 SW Jackson Street
Suite 900
Topeka, KS 66612-1241

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