

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

In the Matter of)
AMERICAN SECURITY)
INSURANCE COMPANY)

Docket No. 3750-SO

SUMMARY ORDER

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-2,125 and in accordance with K.S.A. 77-537, the Commissioner hereby admonishes and assesses penalty against American Security Insurance Company (“American Security”) for violation of the applicable provisions of the Kansas insurance statutes. This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for hearing is made, pursuant to K.S.A. 77-542.

Findings of Fact

The Commissioner has been shown the following facts:

1. American Security, located at 2711 Centerville Rd., Ste 400, Wilmington, DE 19808, has been authorized to transact and has continuously engaged in transacting insurance business in the State of Kansas since March 10, 1986.
2. On May 10, 2007, the Kansas Insurance Department (“KID”) received a written complaint from Ms. Laura Stoltenberg (“Ms. Stoltenberg”) regarding American Security.
3. According to Ms. Stoltenberg’s complaint, her home was refinanced in December 2006. The refinancing was to include an escrow account for insurance and taxes. According to KID information, the Stoltenberg’s agent established the account through NovaStar Mortgage (“NovaStar”) which was to pay Farm Bureau Financial Services (“Farm Bureau”) for the insurance.

4. NovaStar failed to establish the account and did not pay the premium when billed by Farm Bureau.
5. American Security issued a Master Insurance policy to NovaStar under which NovaStar was authorized to extend coverage to properties on which NovaStar held the mortgage, the Stoltenberg's home qualified in this matter.
6. On 5/4/07, a tornado struck the town of Greensburg, causing extensive damage to the community, including the Stoltenberg's home.
7. The Stoltenberg's home was covered by NovaStar's insurance policy with American Security as a result of the lapse of the Farm Bureau policy for non-payment of premium.
8. On June 21, 2007, KID Consumer Assistance Division Director Mr. Jim Welch ("Mr. Welch") wrote Ms. Lisa Norwood ("Ms. Norwood") with Assurant Specialty Property (American Security's parent company) indicating the Stoltenberg's received two conflicting bills for insurance and requested clarification as to which information was correct and two whom the payments were owed.
9. Additionally, Mr. Welch requested a certified copy of the insurance policy and declaration page and a copy of the engineers' report and all damage estimates as a result of an engineers inspection conducted on 6/19/07 on behalf of American Security.
10. On June 25, 2007, Ms. Laurie Potter ("Ms. Potter") responded on behalf of American Security. Ms. Potter indicated Lender Placed Coverage was in force from March 1, 2007 to March 1, 2008.

11. Ms. Potter's response did not provide Mr. Welch with the information requested in his June 21, 2007 letter.
12. On July 18, 2007, Mr. Welch wrote Ms. Potter again requesting a copy of the policy (ALR167800300) and the American Security claim file (00100461590). Mr. Welch's also letter established the statutory and regulatory timeframe required for response.
13. On September 18, 2007, Mr. Welch wrote Ms. Tanya Rafferty ("Ms. Rafferty") and referenced the June 21, 2007, fax to Ms. Norwood and the July 18, 2007, letter to Ms. Potter and the information requested therein stating the information had not yet been provided to KID.
14. On October 11, 2007, Mr. Welch wrote Ms. Rafferty indicating none of the information requested by KID had been provided to date and requested information as to why depreciation had been taken on five recently remodeled rooms in the Stoltenberg home.
15. On October 17, 2007, American Security responded to Mr. Welch's original request for information but failed to respond to Mr. Welch's question regarding depreciation of the recently remodeled rooms.

Applicable Law

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 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;

- (b) If any person fails to file any report or other information with the commissioner as required by statute or failure 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.

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

Section 6. Failure to Acknowledge Pertinent Communications

- B. Every insurer, upon receipt of any inquiry from the insurance department respecting a claim shall, within fifteen working days of such inquiry, furnish the department with an adequate response to the inquiry.

Conclusions of Law

The Commissioner has jurisdiction over American Security and the subject matter of this proceeding and based on Paragraphs #1 through #15 and the Applicable Law enumerated above:

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE:

- 16. American Security's failure to adequately respond to Mr. Welch's request for information on June 21, 2007 constitutes a violation of K.S.A. 40-2,125(a) and K.A.R. 40-1-34 Section 6B.
- 17. Pursuant to K.S.A. 40-2,125(a)(1), American Security is hereby ordered to pay a monetary penalty in the amount of ONE THOUSAND DOLLARS AND 00/100 (\$1,000.00) for the above-stated violation of K.A.R. 40-1-34 Section 6B for failure to adequately respond to Mr. Welch's June 21, 2007 inquiry.
- 18. American Security's failure to respond to Mr. Welch's inquiry of July 18, 2007 constitutes a violation of K.S.A. 40-2,125(b).

19. Pursuant to K.S.A. 40-2,125(b), American Security is hereby ordered to pay a monetary penalty in the amount of ONE THOUSAND THREE HUNDRED DOLLARS AND 00/100 (\$1,300.00) for the above-stated violation of K.S.A. 40-2,125(b).
20. American Security's failure to respond to Mr. Welch's September 18, 2007, inquiry constitutes a violation of K.S.A. 40-2,125(b).
21. Pursuant to K.S.A. 40-2,125(b), American Security is hereby ordered to pay a monetary penalty in the amount of FIVE HUNDRED DOLLARS AND 00/100 (\$500.00).
22. The Commissioner shall maintain jurisdiction over this matter to issue any Order(s) deemed necessary and appropriate.

NOTICE OF RIGHTS
(Pursuant to K.S.A. 77-542)

American Security Insurance Company ("American Security") is entitled to a hearing pursuant to K.S.A. 77-537 and K.S.A. 77-542, the Kansas Administrative Procedure Act. If American Security 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 American Security 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 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 American Security 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 19th DAY OF OCTOBER, 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

Prepared and Submitted By:

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

Certificate of Service

The undersigned hereby certifies that he served the above and foregoing Summary Order and Notice of Rights on this 19th day of October, 2007, by causing the same to be deposited in the United States Mail, first-class postage prepaid, addressed to the following:

Ms. Tanya J. Rafferty
Assurant Group
Claims Legal Coordinator
11222 Quail Roost Drive
Room 204
Miami, FL 33157-6596

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