

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

In the Matter of )  
**CONTINENTAL CASUALTY** ) Docket No. 3787-CO  
**COMPANY** )

**CONSENT ORDER**

The Kansas Insurance Department (“KID”) and Continental Casualty Company (“Continental Casualty”) wish to resolve the above-captioned matter before the Commissioner of Insurance without formal adjudication 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. This Consent 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 parties stipulate that if a hearing were conducted in this matter, the following evidence could be adduced by the Commissioner, and although neither admitted nor denied by Continental Casualty, would be recognized as admissible to show the following:

1. Continental Casualty located at 333 S. Wabash, 43S, Chicago, IL 60604 has been authorized to transact and has continuously engaged in transacting insurance business in the State of Kansas since March 16, 1948.
2. On or about August 21, 2007, the Kansas Insurance Department (“KID”) received a written complaint from Ms. Stephanie Werth (“Ms. Werth”) regarding Continental Casualty.

3. According to KID records, Ms. Werth purchased a 2002 Ford Escort from Clay Chevrolet in Hays, Kansas on April 7, 2006. In addition, Ms. Werth purchased an GAP Addendum for \$495.00.
4. On May 22, 2007, Ms. Werth's vehicle was damaged by hail. Farmers Insurance Company ("Farmers") totaled Ms. Werth's vehicle and paid Ms. Werth \$4,669.64 to settle the claim.
5. Ms. Werth's outstanding balance at the time of the loss was \$5,524 leaving a gap of \$825.00.
6. Continental Casualty paid \$270.31 of the \$825.00 difference leaving \$564.69 unpaid.
7. Continental Casualty has denied payment of this amount on the position that Farmers owes Ms. Werth the additional \$564.69, not Continental Casualty.

### **Applicable Law**

K.S.A. §40-2404 states, in pertinent part:

- (9) *Unfair claim settlement practices.* It is an unfair claim settlement practice if any of the following or any rules and regulations pertaining thereto are (A) Committed flagrantly and in conscious disregard of such provisions, or (B) committed with such frequency as to indicate a general business practice.
  - (f) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

K.S.A. §40-2406 states, in pertinent part:

- (a) Whenever the commissioner has reason to believe that any such person has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice, whether or not defined in K.S.A. 40-2404 and amendments thereto, and that a proceeding by the commissioner in respect thereto would be in the interest of the public, the commissioner shall issue and serve upon such person a state of the charges in that respect and conduct a hearing in accordance with the provisions of the Kansas administrative procedure act.

- (b) If, after such hearing, the commissioner determines that the person charged has engaged in any unfair method of competition or any unfair or deceptive act or practice, any costs incurred as a result of conduct any administrative hearing authorized under the provisions of this section shall be assessed against such person or the company or companies represented by such person. . . .

K.S.A. §40-2407 states, in pertinent part:

- (a) If, after such hearing, the commissioner shall determine that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice, the commissioner shall render an order requiring such person to cease and desist from engaging in such method of competition, act or practice and if the act or practice is a violation of K.S.A. §40-2404 and amendments thereto, 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, but not to exceed an aggregate penalty of \$10,000, unless the person knew or reasonably should have know such person was in violation of this act, which case the penalty shall not be more than \$5,000 for each and every act or violation. . . .
  - (3) redress of the injury by requiring the refund of any premium paid by, the payment of any moneys withheld from, any consumer and appropriate public notification of the violation.

**Conclusions of Law**

**IT IS THEREFORE, AGREED UPON BY THE COMMISSIONER OF INSURANCE AND CONTINENTAL CASUALTY COMPANY:**

- 8. Continental Casualty agrees to make a payment of One Thousand Dollars and 00/100 (1,000.00) to KID and a payment of Five Hundred Sixty Four Dollars and 69/100 (\$564.69) to Ms. Stephanie Werth in exchange for the dismissal of this action with prejudice.
- 9. Upon entry of this Consent Order this action shall be dismissed with prejudice. None of the Findings of Fact, Conclusions of Law or Orders contained in KID's Summary Order filed February 13, 2008, are deemed binding or effective since no hearing was conducted in this matter.

10. If payment is not made as required, KID may vacate and/or declare this Consent Order void or proceed with a hearing.

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

Continental Casualty Company (“Continental Casualty”) is entitled to a hearing pursuant to K.S.A. 77-537 and K.S.A. 77-542, the Kansas Administrative Procedure Act. If Continental Casualty 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. 9<sup>th</sup> Street  
Topeka, Kansas 66612

This request must be filed within fifteen (15) days from the date of service of this Order. If Continental Casualty 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 Consent 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 Continental Casualty 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. 9<sup>th</sup> Street  
Topeka, Kansas 66612

IT IS SO ORDERED THIS 20th DAY OF MARCH, 2008, 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

**Continental Casualty Company**

BY:

/s/ Kate F. Murray  
Kate F. Murray  
Compliance Manager

**Certificate of Service**

The undersigned hereby certifies that above and foregoing **Consent Order** was served via the United States Postal Service, first-class postage prepaid, on this   20th   day of   March  , 2008, addressed to the following:

Kate Murray  
CNA National Compliance Manager  
4150 N. Drinkwater Blvd, Suite 400  
Scottsdale, AZ 85251

  /s/  Zachary J.C. Anshuta\_\_\_\_\_

Zachary J.C. Anshutz  
Staff Attorney