

FINAL ORDER**Effective: 1-23-08****BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS**

In the Matter of Wausau Business) **Docket No. 3777-SO**
Insurance Company, NAIC # 26069)

SUMMARY ORDER

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

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.

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

1. Wausau Business Insurance Company (“Wausau Business”) is a stock property and casualty company authorized to transact the business of insurance in the State of Kansas with its statutory home office located at 2000 Westwood Drive, Wausau, Wisconsin 54401 and is subject to statutes regulating the business of insurance.

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. Wausau Business was admitted to transact the business of insurance in Kansas on December 20, 1991.

4. On or about February 27, 2007, KID received the Year 2006 Retaliatory Summary Sheet from Wausau Business.

5. Wausau Business reported \$100,893.98 on line 3, column 2 and \$217.00 on line 3, column 3 of the Year 2006 Retaliatory Summary Sheet.

6. On March 16, 2007, KID audited the tax filing and revised line 3, column 3 of the Year 2006 Retaliatory Summary Sheet to \$100,893.98 to reflect the amount that the company's home state would charge a Kansas company.

7. On or about May 16, 2007, KID explained its audit findings and informed Wausau Business that an outstanding premium tax amount was due.

8. On or about June 14, 2007, KID explained its audit findings and informed Wausau Business that an outstanding premium tax amount was due.

9. On or about July 9, 2007, KID explained its audit findings and informed Wausau Business that an outstanding premium tax amount was due.

10. On November 13, 2007, KID sent a letter to Wausau Business requesting the outstanding premium tax amount of \$15,122.50 by November 30, 2007.

11. On December 4, 2007, KID sent to Wausau Business a letter requested the anticipated date of payment of the outstanding premium taxes for 2006.

12. To date, Wausau Business has not paid the outstanding premium taxes for 2006.

Conclusions of Law

13. Kansas Statutes Annotated ("K.S.A.") 40-252 provides, in relevant part:

Every insurance company or fraternal benefit society organized under the laws of this state or doing business in this state shall pay to the commissioner of insurance fees and taxes...

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Payment of Taxes.

For the purpose of insuring the collection of the tax upon premiums, assessments and charges as set out in subsection A, C, D or F, every insurance company, corporation or association shall at the time it files its annual statement, as required by the provisions of K.S.A. 40-225, and amendments thereto, make a return, verified by affidavits of its president and secretary or other chief officers, to the commissioner of insurance, stating the amount of all premiums, assessments and charges received by the companies or corporations in this state, whether in cash or notes, during the year ending on the December 31 next preceding.

Commencing in 1985 and annually thereafter the estimated taxes shall be paid as follows: On or before June 15 and December 15 of such year an amount equal to 50% of the full amount of the prior year's taxes as reported by the company shall be remitted to the commissioner of insurance. As used in this paragraph, "prior year's taxes" includes (1) taxes assessed pursuant to this section for the prior calendar year, (2) fees and taxes assessed pursuant to K.S.A. 40-253, and amendments thereto, for the prior calendar year, and (3) taxes paid for maintenance of the department of the state fire marshal pursuant to K.S.A. 75-1508, and amendments thereto, for the prior calendar year.

Upon the receipt of such returns the commissioner of insurance shall verify the same and assess the taxes upon such companies, corporations or associations on the basis and at the rate provided herein and the balance of such taxes shall thereupon become due and payable giving credit for amounts paid pursuant to the preceding paragraph, or the commissioner shall make a refund if the taxes paid in the prior June and December are in excess of the taxes assessed.

14. K.S.A. 40-253 provides, in relevant part:

Whenever the existing or future laws of any other state or country shall require from insurance companies or fraternal benefit societies organized under the laws of this state, applying to do business in such other state or country, any deposit of securities in such state or country for the protection of policyholders therein or any payment for taxes, fines, penalties, certificates of authority, licenses, fees, or compensation for examination, including taxes or fees based on fire premiums, greater than the amount required for such purpose from insurance companies or agents of other states by the then existing laws of this state, then, and in every case, all companies and agents of any such state or country, doing business in this state shall make the same deposit, for a like purpose, with the commissioner of insurance of this state, and pay to the commissioner of insurance for taxes, fines, penalties, certificates of authority, licenses, fees, or compensation for examination, including taxes or fees based on fire premiums, an amount equal to the amount of such charges and payments imposed by the laws of such other state or country upon the companies of this state and the agents thereof...

15. K.S.A. 40-254 provides:

Unless herein otherwise provided, every violation of any of the provisions of this code shall subject the person violating the same to a penalty of not to exceed five hundred dollars for each violation or by imprisonment not to exceed six months in the county jail or both.

16. Based on the information contained in Findings of Facts, Wausau Business Insurance Company failed to respond to pay outstanding premium taxes for the year 2006.

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

1. Wausau Business Insurance Company shall remit outstanding premium tax for year 2006 in the amount of \$15,122.50.

2. Wausau Business Insurance Company remit to the Kansas Insurance Department \$500 for failure to pay outstanding premium taxes.

3. 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 Hearing or Appeal

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, Business 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 4th DAY OF JANUARY, 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

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 4th day of January, 2008, addressed to the following:

George Ryan
AVP, Director of State Taxes
Wausau Companies
2000 Westwood Drive
Wausau, IL 54401

J. Stanley Hoffert
Secretary
Wausau Companies
2000 Westwood Drive
Wausau, IL 54401

James Closson
Wausau Companies
175 Berkeley St
Boston, MA 02116

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