

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

In the Matter of)	
Heritage Administration)	Docket No. 3954-SO
Services, Inc.)	

CONSENT ORDER

The Kansas Insurance Department (“KID”) and Heritage Administration Services, Inc. (“HAS”) 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 Heritage Administration Services, Inc., would be recognized as admissible to show the following:

1. HAS is located at 400 Metro Place North, Suite 300, Dublin, Ohio 43017, and has been authorized to transact and has continuously engaged in transacting insurance business in the State of Kansas since December 30, 2004.
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. On November 25, 2008, KID received a complaint from Perl Chevrolet-Buick, Inc. (Perl), concerning at least eight (8) separate automobiles that had authorized repairs performed but the invoices were not paid as agreed under the warranty service contract.
4. On November 14, 2008, HAS was advised of the complaint by a letter sent by James Welch, Director of the Consumer Assistance Division for KID.
5. On December 2, 2008, KID again contacted HAS requesting a response to the Perl complaint and additional information.
6. On January 14, 2009, Mr. Welch received a one (1) page response to the complaint from Heritage. The response noted that the delay was due to Heritage no longer producing any new business and had been “servicing the claims run off” with a limited staff for the last two (2) years. There was no other information provided to KID by Heritage.
7. On April 17, 2009, KID again contacted HAS by mail with regard to the complaint filed by Perl.
8. HAS did not respond to the KID letter of April 17, 2009.

Applicable Law

Kansas Administrative Regulations (“K.A.R.”) 40-1-34 provides in the pertinent part:

§6 (C) An appropriate reply shall be made within ten working days on all other pertinent communications from a claimant which reasonably suggests that a response is expected.

Kansas Statutes Annotated (“K.S.A.”) 40-2404 provides in the pertinent parts:

(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.

(b) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

K.S.A. 40-2,125(a) provides, 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;

Conclusions of Law

Based on the Findings of Fact in Paragraphs #1 through #13 and the Applicable Law above,

IT IS THEREFORE, AGREED UPON BY THE COMMISSIONER OF INSURANCE,

NAL:

1. Heritage Administration Services, Inc. neither admits nor denies the allegations set forth in Paragraph #1 through #8 above.
2. Heritage Administration Services, Inc. agrees to make a payment to KID of One Thousand Dollars and 00/100 (\$1,000.00) for failing to comply with inquiries of KID. In exchange for the payment KID will dismiss this action with prejudice.
3. Upon entry of this Consent Order this action shall be dismissed with prejudice. If payment is not made as required, KID may vacate and/or declare this Consent Order void and proceed with a hearing.
4. The Commissioner shall retain jurisdiction over this matter to issue any Order(s) deemed necessary and appropriate.

NOTICE OF RIGHTS

Heritage Administration Services, Inc. (“HAS”) is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If Heritage Administration Services, Inc. (“HAS”) 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 Heritage Administration Services, Inc. (“HAS”) 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 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 Heritage Administration Services, Inc. (“HAS”) 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 30th DAY OF DECEMBER, 2009, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



_____/s/ Robert M. Tomlinson_____
Robert M. Tomlinson
Presiding Officer

Submitted and Approved By:

/s/ Paul Miles

Paul Miles, Treasurer
Heritage Administration Services, Inc.

/s/ Mark A. Marion

Mark A. Marion
Staff Attorney
Kansas Insurance Department

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 30th day of December, 2009, addressed to the following:

Haytham Elzayn, President
Heritage Administration Services, Inc
400 Metro Place North, Suite 300
Dublin, OH 43017

CC: Mr. Peter Knolla, Secretary
Heritage Administration Services, Inc.
400 Metro Place North, Suite 300
Dublin, OH 43017

/s/ Mark A. Marion

Mark A. Marion
Staff Attorney