

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

**In the Matter of** )  
**GLOBE LIFE & ACCIDENT INSURANCE COMPANY** ) **Docket No. 4384-CO**  
**NAIC#91472** )  
 )

**CONSENT AGREEMENT AND FINAL ORDER**

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-103 and in accordance with K.S.A. 40-2,125, the Commissioner hereby admonishes and assesses penalty against Globe Life & Accident Insurance Company (Globe) for violation of the applicable insurance statutes. This Consent Agreement shall become effective as a Final Order, without further notice, when signed by the Commissioner or her designee and filed of record with the Kansas Insurance Department (KID).

**Findings of Facts**

1. Globe Life & Accident Insurance Company, located at 10306 Regency Parkway Drive, Omaha, NE 73184, is a foreign domiciled licensed insurance company in the state of Kansas with NAIC #91472.
2. On December 20, 2010, the KID market conduct team notified Globe that it was in violation of Kansas law by selling a group life insurance policy to individual Kansas consumers and placing Kansas consumers into a discretionary Delaware trust which had not been filed with KID and there was no purpose for the group other than to sell insurance.
3. On April 14, 2011, Globe’s attorney, John C. Frieden, wrote to KID by email stating that Globe would “make whatever appropriate policy and form filings are required in Kansas and will terminate issuing policies to Kansas residents under the discretionary trust.”

4. On January 5, 2012, a certificate for a group policy was issued to a Kansas consumer.
5. On February 22, 2012, Globe informed KID that 5,750 group certificates were issued to Kansas consumers between April 14, 2011 and January 31, 2012 despite informing KID that the company had ceased this practice.
6. Globe does not admit nor deny the stipulated facts.
7. Globe stipulates that it understands its right to have a hearing on the facts and disposition and to seek review of an adverse order in this matter.
8. Globe expressly waives hearing and stipulates to the foregoing facts.
9. Globe further waives administrative and judicial review.

#### **Applicable Law**

K.S.A. 40-103 states,

“The commissioner of insurance shall have general supervision, control and regulation of corporations, companies, associations, societies, exchanges, partnerships, or persons authorized to transact the business of insurance, indemnity or suretyship in this state and shall have the power to make all reasonable rules and regulations necessary to enforce the laws of this state relating thereto.”

K.S.A. 40-433 states,

No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

(1) A policy issued by an insurance company organized under the laws of the state of Kansas on its employees and agents, which agents for the purpose of this act only shall be deemed employees, the beneficiaries under such policies to be persons designated by each insured, or a policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, both subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or

more subsidiary corporations, and the employees, individual proprietors, and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless the proprietor or partner is actively engaged in and devotes a substantial part of their time to the conduct of the business of the proprietor or partnership. A policy issued to insure the employees of a public body may provide that the term "employees" shall include elected or appointed officials.

(b) The premium for the policy may be paid by the policyholder, either wholly from the employer's funds or funds contributed by the employer, or partly from such funds and partly from funds contributed by the insured employees or entirely by the employees at their option. A policy on which no part of the premium is to be derived from funds contributed by the insured employees shall insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer or except those who reject the coverage in writing.

(c) The amounts of insurance under the policy shall be based upon some plan, precluding individual selection either by the employees or by the employer or trustees.

(2) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

(a) The debtors eligible for insurance under the policy shall be all of the debtors of the creditor whose indebtedness is repayable in installments, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness.

(b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least 75% of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges shall insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly, or may reasonably be expected to receive at least 100 new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75% of the new entrants become insured.

(d) The amount of insurance on the life of any debtor shall at no time exceed the amount owed by that debtor which is repayable in installments to the creditor.

(e) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

(3) A policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

(a) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

(b) The premium for the policy may be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance or entirely by the insured members at their option. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance shall insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer or except those who reject coverage in writing.

(c) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the members or by the union.

(4) A policy issued to the trustees of a fund established in this state by two or more employers if a majority of the employees to be insured of each employer are located within the state, or to the trustees of a fund established by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

(a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term "employees" shall include retired employees and the individual proprietor or partners if any employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for

insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless the proprietor or partner is actively engaged in and devotes a substantial part of their time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship.

(b) The premium for the policy may be paid by the trustees either wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both, or partly from such funds and partly from funds contributed by the insured employees or wholly from funds contributed by the employees or members at their option. The policy shall insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer or except those who reject coverage in writing.

(c) The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or union.

(5) A policy issued to an association which has been organized and is maintained for purposes other than that of obtaining insurance, insuring at least 25 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" as used herein shall be deemed to include retired employees. The premiums for the policies shall be paid by the policyholder, either wholly from association funds, or funds contributed by the members of such association or by employees of such members or any combination thereof. The amounts of insurance under the policy shall be based upon some plan precluding individual selection either by the insured person or by the association or by the member.

(6) Any policy issued pursuant to this section may be extended to insure the employees against loss due to the death of their spouses, their children, their grandchildren, their spouse's children, their spouse's grandchildren, their parents, their spouse's parents, or any class or classes thereof, subject to the following requirements:

(a) The premium for the insurance may be paid by the policyholder, either from the employer's funds or from funds contributed by the insured employees, or from both. If no part of the premium is to be derived from funds contributed by the employees, all eligible employees, excluding any as to whose family members' evidence of insurability is not satisfactory to the insurer, shall be insured with respect to their spouses, their children, their grandchildren, their spouse's children, their spouse's grandchildren, their parents, [or] their spouse's parents.

(b) Upon termination of the insurance with respect to the spouse of an employee by reason of the employee's termination of employment or

death, the spouse insured pursuant to this section shall have the same conversion rights as to the insurance on such spouse's life as is provided for the employee under K.S.A. 40-434, and amendments thereto.

(c) Notwithstanding the provisions of K.S.A. 40-434, and amendments thereto, only one certificate need be issued for delivery to an insured person if a statement concerning any dependent's coverage is included in such certificate.

(7) A policy may be issued to any other group which the commissioner of insurance finds is the proper subject of a group life insurance policy or contract. Any such group shall be subject to any appropriate conditions or provisions relating thereto which the commissioner may establish or require, consistent with the provisions of this act, and such conditions and provisions shall be included in the policy or contract.

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;”

### **Conclusions of Law**

The Commissioner has jurisdiction over Globe and the subject matter of this proceeding and based on Paragraphs #1 through #9 and the Applicable Law enumerated above.

### **IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE:**

1. Globe's failure to cease the issuance of group certificates into the Delaware discretionary trust to Kansas consumers constitutes a violation of K.S.A. 40-433.
2. Pursuant to K.S.A. 40-2,125(a), Globe is hereby ordered to pay a monetary penalty, due and payable to the Kansas Insurance Department, in the amount of SEVENTEEN

THOUSAND TWO HUNDRED AND FIFTY DOLLARS (\$17,250.00) for its above-stated violation of K.S.A. 40-433.

3. Pursuant to KSA 77-415(b)(2)(A), this order is designated by KID as precedent.

**IT IS SO ORDERED THIS 6th DAY OF APRIL 2012, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



/s/ Sandy Praeger  
Sandy Praeger  
Commissioner of Insurance

BY:

/s/ Zachary J.C. Anshutz  
Zachary Anshutz  
General Counsel

**Stipulation**

The undersigned stipulates and agrees to the above findings fact and conclusions of law and waives its rights to administrative hearing and judicial review of the Commissioner's Order.

<u>/s/ Charles Hudson</u> _____	<u>4-5-2012</u> _____
Charles Hudson	Date
President/Respondent	

Prepared by:

/s/ Jennifer R. Sourk\_\_\_\_\_

Jennifer R. Sourk  
Staff Attorney

**NOTICE:** In the event Respondent files a petition for judicial review, it must be filed within 30 days of service of this order, and pursuant to K.S.A. 77-613(e), the agency officer to be served on behalf of the Kansas Insurance Department is:

Zachary J.C. Anshutz, General Counsel  
Kansas Insurance Department  
420 S.W. 9th Street  
Topeka, Kansas 66612



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that he served the above and foregoing Order and Notice of Rights on this 6th day of April, 2012, by causing the same to be deposited in the United States Mail, registered mail with return-receipt requested postage prepaid, addressed to the following:

Charles Hudson  
President  
Globe Life & Accident Insurance Company  
10306 Regency Parkway Dr.  
Omaha, NE 68114

John Frieden  
Frieden, Unrein & Forbes, LLP.  
555 S Kansas Ave, Suite 303  
Topeka, KS 66603

\_s/ Jennifer R. Sourk\_\_\_\_\_

Jennifer R. Sourk  
Staff Attorney