

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

In the Matter of)
HEARTLAND NATIONAL LIFE INS. CO.) **Docket No. 4514-CO**
NAIC#66214)
)

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 Heartland National Life Insurance Company (Heartland National) 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. Heartland National Life Insurance Company, located at 1600 NE Coronado, Blue Springs, MO 64014 is a foreign domiciled licensed insurance company in the state of Kansas with NAIC #66214.
2. KID has received complaints about an advertising solicitation mailed by Heartland National that is misleading and uses words that appear to be connected to a government agency. In addition, the solicitation contains minimized disclosures, states a limited time frame to reply to the solicitation and does not clearly indicate that a life insurance product is being advertised.
3. Heartland National, without adjudication of any issues of law or fact, is not admitting or denying liability of any allegations or foregoing facts.

4. Heartland National stipulates to the foregoing facts and consents to the assessment of the civil penalty as ordered.
5. Heartland National understands its right to have a hearing on the facts and disposition and to seek review of an adverse order in this matter and expressly waives hearing 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. 40-2404 states,

The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(2) *False information and advertising generally.* Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion, misrepresentation or statement with respect to the business of insurance or with respect to any person in the conduct of such person's insurance business, which is untrue, deceptive or misleading.

K.A.R. 40-9-118 states,

Section 4. Form and Content of Advertisements

1. Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive.

Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Commissioner of Insurance from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

Section 5. Disclosure Requirements

1. The information required to be disclosed by this regulation shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

5. An advertisement shall prominently describe the type of policy advertised.

20. Introductory, Initial or Special Offers and Enrollment Periods

(a) An advertisement of an individual policy or combination of policies shall not state or imply that the policy or combination of policies is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless that is the fact. An advertisement shall not describe an enrollment period as "special" or "limited" or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies.

Section 6. Identity of Insurer

2. No advertisement shall use any combination of words, symbols or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with a governmental program or agency.

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 Heartland National and the subject matter of this proceeding and based on Paragraphs #1 through #5 and the Applicable Law enumerated above.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE:

1. Heartland National's marketing advertisement sent to Kansas consumers is in violation of K.S.A. 40-2404 and K.A.R. 40-9-118.
2. Pursuant to K.S.A. 40-2,125(a), Heartland National is hereby ordered to pay a monetary penalty, due and payable to the Kansas Insurance Department, in the amount of TWO THOUSAND DOLLARS (\$2,000.00) for its above-stated violations of K.S.A. 40-2404 and K.A.R. 40-9-118.
3. Pursuant to KSA 77-415(b)(2)(A), this order is designated by KID as precedent.

IT IS SO ORDERED THIS 2nd DAY OF NOVEMBER 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 J.C. 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.

/s/ Christopher M. McDaniel 10-30-12
Christopher M. McDaniel 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 2nd day of November, 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:

Bill Ellsworth
Heartland National Life Insurance Company
1600 NE Coronado Dr.
Blue Springs, MO 64014

/s/ Jennifer R. Sourk_____
Jennifer R. Sourk
Staff Attorney

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