

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

In the Matter of)
HOMESITE INDEMNITY COMPANY) Docket No. 4425-MC
NAIC #20419)

ORDER

Pursuant to the authority conferred upon the Commissioner of Insurance in K.S.A. 40-222, Sandy Praeger, the duly elected, qualified and serving Commissioner of Insurance hereby adopts the Kansas Insurance Department’s Report of Market Conduct Examination of Homesite Indemnity Company (“Homesite”) as of August 31, 2011, (attached herein) by incorporating the same in its entirety with specific findings stated as follows. This Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for a hearing is made, pursuant to K.S.A. 77-542.

Findings of Fact

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222.
2. The Kansas Insurance Department (“KID”) completed a targeted market conduct examination of Homesite. The period of examination was January 1, 2010 through August 31, 2011.
3. On or about February 21, 2012 the Examiner-in-Charge provided Homesite with a draft of the Market Conduct Examination with request for Homesite’s response in the form of written comments, additions, or acceptance.
4. Homesite responded with written comments regarding the draft report.
5. The Market Conduct Examination Report created by KID is attached herein.
6. Tests for Complaint Handling.

- a. Standard 1 reviews that all complaints are recorded in the required format on the company complaint register.
 - i. Examiners reviewed 48 samples and found 7 initial complaints had an incorrect date on the log. The examiners noted that the complaint log contained numerous inaccuracies related to the dates received and dates of final disposition. Failure to maintain proper records regarding company complaints in accordance with the company's policy is in violation of K.S.A. 40-2404(10).
 - ii. Homesite failed standard 1.
- b. Standard 4 reviews the time frame within which the company responds to complaints is in accordance with applicable statutes, rules and regulations.
 - i. Examiners reviewed 48 samples and found 14 errors contained within the complaint files in which Homesite did not respond to the Kansas Insurance Department in violation of section 6(b) of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34.

7. Tests for Claim Handling.

- a. Standard 2 reviews to ensure the investigations are conducted timely.
 - i. Examiners reviewed 106 samples and found 18 errors where Homesite failed to investigate claims within 30 days which violates section 7 of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34 and K.S.A. 40-2404(9)(c).
 - ii. Homesite failed standard 2

- b. Standard 3 reviews to ensure that claims are resolved in a timely manner.
 - i. Examiners reviewed 106 samples and found 15 errors where Homesite failed to accept or deny a proof of loss of within 15 days in violation of section 8(a) of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34 or where Homesite failed to send notice to the claimant 45 days with reasons the claim was still being investigated in violation of section 8(c) of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34.
 - ii. Homesite failed standard 3.

Applicable Law

K.S.A. 40-222 states, in pertinent part:

- (a) Whenever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, a financial examination of any insurance company in the process of organization, or applying for admission or doing business in this state. In addition, at the commissioner's discretion the commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in this state.

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.
 - (c) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;
- (10) Failure to maintain complaint handling procedures. Failure of any person, who is an insurer on an insurance policy, to maintain a complete record of all the complaints which it has received since the date of its last examination under K.S.A. 40-222, and amendments thereto; but no such records shall be required for complaints received prior to the effective date of this act. The record shall indicate the total number of complaints, their classification by line of insurance, the nature

of each complaint, the disposition of the complaints, the date each complaint was originally received by the insurer and the date of final disposition of each complaint. For purposes of this subsection, "complaint" means any written communication primarily expressing a grievance related to the acts and practices set out in this section.

K.A.R. 40-1-34 states, in pertinent part:

Section 6. Failure to Acknowledge Pertinent Communications

- (b) Every insurer, upon receipt of any inquiry from the insurance department respecting a claim shall, within fifteen working days of receipt of such inquiry, furnish the department with an adequate response to the inquiry.

Section 7. Standards for Prompt Investigation of Claim

Every insurer shall complete investigation of a claim within thirty days after notification of claim, unless such investigation cannot reasonably be completed within such time.

Section 8. Standards for Prompt, Fair and Equitable Settlements Applicable to All Insurers

- (a) Within fifteen working days after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial.
- (c) If the insurer needs more time to determine whether a first party claim should be accepted or denied, it shall so notify the first party claimant within fifteen working days after receipt of the proofs of loss, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, forty-five days from the date of the initial notification and every forty-five days thereafter, send to such claimant a letter setting forth the reasons additional time is needed for investigation.

Conclusions of Law

Based upon the Findings of Fact enumerated in Paragraphs #1 through #7 and the Applicable Law cited above,

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

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222.
2. The Kansas Insurance Department's ("KID") Report of Market Conduct Examination of Homesite as of August 31, 2011 is herein adopted in its entirety.
3. Homesite's failure to maintain proper records regarding company complaints constitutes a violation of K.A.R. 40-2404(10).
4. Pursuant to K.S.A. 40-2,125(a)(1), Homesite shall pay a monetary penalty of Five Hundred Dollars and No Cents (\$500.00) for the above-stated violation of K.S.A. 40-2404(10).
5. Homesite's failure to properly respond to a complaint filed with the Kansas Insurance Department constitutes a violation of section 6 of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34.
6. Pursuant to K.S.A. 40-2,125(a)(1), Homesite shall pay a monetary penalty of One Thousand Five Hundred Dollars and No Cents (\$1,500.00) for the above-stated violation of section 6 of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34.
7. Homesite's failure to investigate claims within 30 days after receipt of a claim constitutes a violation of section 7 of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34 and K.S.A. 40-2404.

8. Pursuant to K.S.A. 40-2,125(a)(1), Homesite shall pay a monetary penalty of One Thousand Five Hundred Dollars and No Cents (\$1,500.00) for the above-stated violation of section 7 of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34 and K.S.A. 40-2404.
9. Homesite's failure to resolve claims in a timely manner and provide notification to claimants constitutes a violation of section 8 of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34.
10. Pursuant to K.S.A. 40-2,125(a)(1), Homesite shall pay a monetary penalty of Five Hundred Dollars and No Cents (\$500.00) for the above-stated violation of section 8 of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34.
11. Pursuant to KSA 77-415(b)(2)(A), this order is designated by KID as precedent.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE that Homesite Indemnity Company is assessed a MONETARY PENALTY in the amount of FOUR THOUSAND DOLLARS AND NO CENTS (\$4,000.00) payable to the Kansas Insurance Department within 30 days from the final date of this Order.

IT IS SO ORDERED THIS 12th 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 Anshutz
Zachary Anshutz
General Counsel

NOTICE OF RIGHTS

Homesite is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If Homesite desires a hearing, the company must file a written request for a hearing with:

Zachary Anshutz, 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 Homesite requests 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 the commencement of the 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 Homesite 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:

Zachary 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 12th 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:

Douglas Batting
President
Homesite Indemnity Company
6201 College Blvd., Suite 500
Overland Park, KS 66210

Forwarded to:
Homesite Indemnity Company
99 Bedford Street
Boston, MA 02111-2217

_/s/ Jennifer R. Sourk_____

Jennifer R. Sourk
Staff Attorney