

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

In the Matter of)
KEY INSURANCE COMPANY) Docket No. 4475-MC
NAIC #12966)

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 Key Insurance Company (“Key”) as of December 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 Key. The period of examination was January 1, 2011 through December 31, 2011.
3. The Examiner-in-Charge provided Key with a draft of the Market Conduct Examination with a request for Key’s response in the form of written comments, additions, or acceptance.
4. Key responded with no comments or changes to 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. The company complaint register did not contain the dispositions of the complaints or the dates of final disposition. Failure to maintain proper records regarding company complaints is in violation of K.S.A. 40-2404(10).
 - ii. Key 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 49 samples and found 29 errors contained within the complaint files in which Key did not respond to the Kansas Insurance Department within the required time frame in violation of section 6(b) of the NAIC Unfair Claim Settlement Practice Model Regulation as adopted by K.A.R. 40-1-34.

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:

- (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.

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 Key as of December 31, 2011 is herein adopted in its entirety.
3. Key'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), Key shall pay a monetary penalty of One Thousand Dollars and No Cents (\$1,000.00) for the above-stated violation of K.S.A. 40-2404(10).
5. Key'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), Key shall pay a monetary penalty of Five Thousand Eight Hundred Dollars and No Cents (\$5,800.00) 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. 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 Key Insurance Company is assessed a MONETARY PENALTY in the amount of SIX THOUSAND EIGHT HUNDRED DOLLARS AND NO CENTS (\$6,800.00) payable to the Kansas Insurance Department within 30 days from the final date of this Order.

IT IS SO ORDERED THIS 13th DAY OF AUGUST 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

Key is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If Key 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 Key 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 Key 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 13th day of August 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:

J. Frank Hummer
Key Insurance Company
8595 College Blvd.
Overland Park, KS 66210

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