

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

In the Matter of the Application for)
Kansas Nonresident Insurance Agency License) Docket No. **4693-CO**
Of **HEALTHSMART BENEFIT SOLUTIONS, INC.**)

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. 40-4901 *et seq.*, and K.S.A. 77-501 *et seq.*, the Commissioner hereby accepts the stipulations of the parties, and grants, with conditions, the application of HealthSmart Benefit Solutions, Inc., ("Applicant"), for a Kansas nonresident insurance agency license. 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 Fact

1. Applicant is domiciled in Illinois, licensed as a resident agency in Texas, and currently licensed as an insurance producer and/or authorized to act as a third party administrator in over 40 other jurisdictions.
2. Applicant is currently registered as a third party administrator in Kansas and in good standing.
3. Applicant has submitted an application for a Kansas nonresident insurance agency license.
4. On the application, Applicant disclosed a civil action pending against it in the District Court of Dallas County, Texas, *Headington Oil Company, LLC, v. HealthSmart Benefit Solutions, Inc., et al.*, cause number DC-11-15806-J.
5. Applicant denies the allegations and is vigorously defending against the plaintiff's claims.
6. For purposes of an agreed order, the parties stipulate that the plaintiff's allegations of facts, if proven, would reflect negatively on Applicant's fitness to hold a

Kansas agency license and establish violations of the Texas Insurance Code and are therefore material to Applicant's application.

7. The parties acknowledge that the facts are best litigated in the Texas court rather than a Kansas administrative proceeding, and KID acknowledges that denial of Applicant's application or undue delay in issuing the license would work a hardship on Applicant's business interests and perhaps on Kansas consumers.

8. Accordingly, the Applicant and KID agree that Applicant should be granted a license with conditions requiring prompt and regular reports on status of the case.

9. For purposes of disposing of Applicant's pending licensure application, Applicant agrees to enter into this Consent Agreement and Final Order and waives its rights to judicial review of this Consent Agreement and Final Order, expressly including any challenge to the Commissioner's authority to place limitations on its license or issue a probationary license.

10. Applicant stipulates that the Commissioner has jurisdiction of the entity and the subject matter of this action.

Applicable Law

11. K.S.A. 40-4909(a) provides, in relevant part:

"The commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the applicant or license holder has: . . .

(2) Violated: . . . (C) any insurance law or regulation of another state; . . . [or]

(8) Used any fraudulent, coercive, or dishonest practice, or demonstrated any incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere." K.S.A. 2013 Supp. 40-4909(a).

Conclusions of Law

12. The Commissioner has jurisdiction over Applicant as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

13. The Commissioner finds that Applicant's application could be denied pursuant to K.S.A. 40-4909(a)(2)(C) and/or K.S.A. 40-4909(a)(8) if Applicant had been found liable on plaintiff's claims as described in Paragraph 6, herein.

14. However, having weighed the nature of the claims, uncertainty of the pending action, and history of the entity's business conduct in Kansas and elsewhere, the Commissioner has determined that Applicant presently appears fit to hold a nonresident insurance agency license.

15. The Commissioner finds that issuing Applicant's nonresident insurance agency license subject to conditions is necessary and sufficient to protect the interests of the public and insurers.

Stipulation

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

_ /s/ Todd Archer _____ _8/24/14_
Todd Archer, Responsible Producer Date
For Applicant

Prepared by:

_ /s/ Brenda J. Clary _____
Brenda J. Clary, #18770
KID Staff Attorney

ORDER

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT the Kansas Insurance Department shall issue a Kansas nonresident insurance agency license to **HEALTHSMART BENEFIT SOLUTIONS, INC.**, effective this date, subject to the following conditions:

1. During the pendency of the claims against Applicant/Licensee included in *Headington Oil Company, LLC, v. HealthSmart Benefit Solutions, Inc., et al.*, Applicant/Licensee shall provide quarterly reports on the status of the litigation, beginning on October 1, 2014, which reports shall be addressed to the KID Producer Licensing Director;
2. Within ten (10) business days of any dispositive event with respect to Applicant/Licensee, including but not limited to dismissal, summary judgment, verdict, or settlement, Applicant/Licensee shall give written notice of the event to the KID Producer Licensing Division;
3. If the event does not constitute a final judgment, Applicant/Licensee shall provide prompt notice of any anticipated future proceedings; and
4. Once final judgment is entered or Applicant/Licensee is finally dismissed from the action, Applicant/Licensee shall report the disposition, with documentation, to KID within 30 days.

IT IS SO ORDERED THIS 29th DAY OF AUGUST 2014, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.

_ /s/ Zachary J.C. Anshutz _____
Zachary J.C. Anshutz
Asst. Commissioner of Insurance



NOTICE

In the event Respondent 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 Wine, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

Certificate of Service

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing **Consent Agreement and Final Order** and accompanying **Notice of Rights** on this __3rd__ day of September 2014, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

HealthSmart Benefit Solutions, Inc.
c/o Sandra Blundetto
Senior Vice President and General Counsel
HealthSmart Holdings, Inc.
222 W. Las Colinas Blvd., Suite 600N
Irving, Texas 75039

_s/ Brenda J. Clary _____
Brenda J. Clary
Staff Attorney