

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

**In the Matter of** )  
**SAFECO INSURANCE COMPANY** ) **Docket No. 4754-SO**  
**OF AMERICA** )  
**NAIC #24740** )

**CONSENT AGREEMENT AND FINAL ORDER**  
**(Pursuant to K.S.A. 40-222 and K.S.A. 77-537)**

Pursuant to the authority conferred upon the Commissioner of Insurance in K.S.A. 40-222, Ken Selzer, CPA, the duly elected, qualified and serving Commissioner of Insurance hereby adopts the Kansas Insurance Department's Report of Market Conduct Examination ("Exam") of Safeco Insurance Company of America ("SAFECO") as of September 30, 2013. The Exam is attached hereto, and by this reference, incorporated herein.

**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 examination of SAFECO. The period of the examination was January 1, 2012 through September 30, 2013.
3. The Examiner-in-Charge provided SAFECO a draft of the Examination Report to which, on April 8, 2015, SAFECO responded.
4. The Kansas Commissioner of Insurance has since fully reviewed the Examination Report and SAFECO's response.
5. The Market Conduct Examination Report created by KID is attached hereto.
6. The complaint register reviewed by the examiner contained inaccurate information.

7. SAFECO did not adequately respond to five complaints within the timeframes specified by Kansas regulations.
8. SAFECO has used some rules and rates that had not been approved by KID.
9. Of the automobile policies reviewed, several items were incorrect, inconsistent or missing in various filings.
10. During the exam, it was discovered that 129 Hawkeye policies had been converted to the SAFECO rating plan using unapproved rates.
11. Of the homeowner policies reviewed, several rates and rules were used in rating policies but were not in the corresponding filing.
12. As a result of the findings identified during this exam, SAFECO has since conducted a review of its rating plan and refiled rates and rules prior to the exam report being finalized.

### **Applicable Law**

13. K.S.A. 40-222 provides, in pertinent parts:
  - (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.
14. K.A.R. 40-1-34, provides:
  - Section 6
  - (b) Every insurer, upon receipt of an 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.

15. K.S.A. 40-2404 provides, in pertinent part:

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

(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.

16. K.S.A. 40-2,125 provides, 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;

...

(3) that such person cease and desist from the unlawful act or practice and take such affirmative action as in the judgment of the commissioner will carry out the purposes of the violated or potentially violated provision.

17. K.S.A. 40-955 states, in pertinent part:

(a) Every insurer shall file with the commissioner, except as to inland marine risks where general custom of the industry is not to use manual rates or rating plans, every manual of classifications, rules and rates, every rating plan, policy form and every modification of any of the foregoing which it proposes to use. Every such filing shall indicate the proposed effective date and the character and extent of the coverage contemplated and shall be accompanied by the information upon which the insurer supports the filings. A filing and any supporting information shall be open to public inspection after it is filed with the commissioner. An insurer may satisfy its obligations to make such filings by authorizing the commissioner to accept on its behalf the filings made by a licensed rating organization or another insurer. Nothing contained

in this act shall be construed to require any insurer to become a member or subscriber of any rating organization.

(g) No insurer shall make or issue a contract or policy except in accordance with filings which have been filed or approved for such insurer as provided in this act.”

### **Conclusions of Law**

Based on the Findings of Fact enumerated in Paragraphs #1 through #12 and the applicable law cited above, **THE COMMISSIONER OF INSURANCE MAKES THE FOLLOWING ORDERS:**

18. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222.
19. The Kansas Insurance Department’s (KID) Report of Market Conduct Examination of SAFECO Insurance Company of America as of September 30, 2013 is herein adopted in its entirety.
20. Based on Finding of Fact #6, SAFECO has violated K.S.A. 40-2404 (10).
21. Based on Finding of Fact #7, SAFECO has violated K.A.R. 40-1-34 Section 6(b).
22. Based on Findings of Fact #9, #10 and #11, SAFECO has violated K.S.A. 40-955 (a) and (g).
23. SAFECO neither admits nor denies the violations noted above.

### **Orders**

Based on the Findings of Fact, Applicable and conclusions cited above, **IT IS ORDERED BY THE COMMISSIONER OF INSURANCE:**

1. Pursuant to K.S.A. 40-2,125(a)(1), SAFECO shall pay a monetary penalty of \$500 for violation of K.S.A. 40-2404(10) for failing to maintain an accurate complaint record.

2. Pursuant to K.S.A. 40-2,125(a)(1), SAFECO shall pay a monetary penalty of \$500 for violation of K.A.R. 40-1-34, Section 6(b) for failing to properly respond to complaints filed with the Kansas Insurance Department.
3. Pursuant to K.S.A. 40-2,125(a)(1), SAFECO shall pay a monetary penalty of \$70,000 for violation of K.S.A. 40-955(a) and (g) for selling automobile policies at rates not approved by the Commissioner.
4. Pursuant to K.S.A. 40-2,125(a)(1), SAFECO shall pay a monetary penalty of \$10,000 for violation of K.S.A. 40-955(a) and (g) for selling homeowner policies at rates not approved by the Commissioner.

**IT IS SO ORDERED THIS   4th   DAY OF   August  , 2015, IN THE CITY OF TOPEKA, STATE OF KANSAS.**



  /s/ Ken Selzer    
Ken Selzer  
Commissioner of Insurance

BY:

  /s/ Diane Minear    
Diane Minear  
General Counsel

APPROVED BY:

  /s/ Michele McCormick    
Michele McCormick, AVP & Sr. Corp. Counsel  
Manager Market Conduct Services

**Certificate of Service**

The undersigned hereby certifies that he served a true and correct copy of the above and foregoing **Consent Order** on this \_\_4th\_\_ day of \_\_\_\_August\_\_\_\_, 2015, by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Michele McCormick, AVP & Sr. Corp. Counsel  
Manager Market Conduct Services  
Office of Corporate Compliance  
Liberty Mutual Group  
175 Berkeley Street  
Boston, MA 02117

\_ /s/ John Dowell \_\_\_\_\_  
John Dowell  
Staff Attorney