

3. The Examination was prompted by an increase in consumer complaints. It focused on marketing, as well as company business practices for oversight of third party administrators (“TPAs”) and distribution channels.
4. Coordinated Benefit Plans and Allied National, TPAs licensed in Kansas, provided medical management services to Companion.
5. Health Insurance Innovations (“HII”), a TPA and insurance agency licensed in Kansas and domiciled in Florida, was the primary marketer and distributor of Companion’s ancillary medical policies sold to Kansas residents. HII also performed policy administration and premium collection functions on behalf of the Company.
6. Evidence would show that HII charged unfiled and inconsistent rates to Kansas consumers on Company’s behalf, amounting to 3,244 policies issued with incorrect rates.
7. Outlines of coverage did not provide complete benefit and rate information.
8. HII did not use separate applications for insurance and association membership and did not clearly articulate or account for non-insurance benefits.
9. Kansas residents were placed into various associations, despite the Companion product purchased being filed as and marketed to individuals.
10. Associations used by HII include AmeriBenefit Plan Association, National Congress of Employers Association, Med-Sense Guaranteed Association, Value Benefits of America and United Service Association for Health Care. These associations appear to be maintained only for insurance purposes.

11. During the examination period, 8 producers sold policies to Kansas residents without a Kansas producer's license, and 71 producers were not properly appointed at the time of sale.
12. Although current management was unaware, Company failed to timely respond to examiners on at least ten occasions.
13. Examiners were unable to recreate complaint files in some instances.
14. Company was provided a copy of the Examination and responded with comments, which are reflected in this consent agreement.
15. There was a change in leadership at the Company during 2017 and Company has discontinued its relationship with HII.

Applicable Law

1. K.S.A. 40-222 provides, in 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.

...

(c) For the purpose of such examination, the commissioner of insurance or the persons appointed by the commissioner, for the purpose of making such examination shall have free access to the books and papers of any such company that relate to its business and to the books and papers kept by any of its agents and may examine under oath, which the commissioner or the persons appointed by the commissioner are empowered to administer, the directors, officers, agents or employees of any such company in relation to its affairs, transactions and condition.

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

(2) suspension or revocation of the person's license or certificate if such person knew or reasonably should have known that such person was in violation of the Kansas insurance statutes or any rule and regulation or order thereunder; or

(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.

(b) If any person fails to file any report or other information with the commissioner as required by statute or fails to respond to any proper inquiry of the commissioner, the commissioner, after notice and opportunity for hearing, may impose a civil penalty of up to \$1,000, for each violation or act, along with an additional penalty of up to \$500 for each week thereafter that such report or other information is not provided to the commissioner.

3. K.S.A. 40-2209 provides, in part:

(f) Group accident and health insurance may be offered to a group under the following basis: ...

(5) A policy issued to an association which has been organized and is maintained for the purposes other than that of obtaining insurance, insuring at least 25 members, employees, or employees of members of the association for the benefit of persons other than the association or its officers. The term "employees" shall include retired employees. The premiums for the policies shall be paid by the policyholder, either wholly from association funds, or funds contributed by the members of such association or by employees of such members or any combination thereof.

4. K.S.A. 40-2215(a) provides, in part:

(a) No individual policy of accident and sickness insurance as defined in K.S.A. 40-2201, and amendments thereto, shall be issued or delivered to any person in this state nor shall any application, rider or endorsement be used in connection therewith, until a copy of the form thereof and of the classification of risks and the premium rates pertaining thereto, have been filed with the commissioner of insurance.

5. K.S.A. 40-2404 **Unfair methods of competition or unfair and deceptive acts or practices; title insurance agents, requirements; disclosure of nonpublic personal information; rules and regulations.** The following are hereby defined as unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(8) Rebates. (a) Except as otherwise expressly provided by law, knowingly permitting, offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the insurance contract issued thereon; paying, allowing, giving or offering to pay, allow or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, selling, purchasing or offering to give, sell or purchase as inducement to such insurance contract or annuity or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

...

(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.

...

(11) Misrepresentation in insurance applications. Making false or fraudulent statements or representations on or relative to an application for an insurance policy, for the purpose of obtaining a fee, commission, money or other benefit from any insurer, agent, broker or individual.

6. K.S.A. 40-2407 provides, in part:

(a) If, after such hearing, the commissioner shall determine that the person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice, the commissioner shall render an order requiring such person to cease and desist from engaging in such method of competition, act or practice and if the act or practice is a violation of K.S.A. 40-2404, and amendments thereto, 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, but not to exceed an aggregate penalty of \$10,000, unless the person knew or reasonably should have known such person was in violation of this act, in which case the penalty shall be not more than \$5,000 for each and every act or violation, but not to exceed an aggregate of \$50,000 in any six-month period.

7. K.S.A. 40-4905 provides, in part:

(a) Subject to the provisions of K.S.A. 2015 Supp. 40-4904, and amendments thereto, it shall be unlawful for any person to sell, solicit or negotiate any insurance within this state unless such person has been issued a license as an insurance agent in accordance with this act.

8. K.S.A. 40-4912 provides, in part:

(a) Any company authorized to transact business in this state, may, upon determining that the insurance agent is of good business reputation and, if an individual has had experience in insurance or will immediately receive a course of instruction in insurance and on the policies and policy forms of such company, appoint such insurance agent as the insurance agent of the company under the license in effect for the insurance agent. The appointment shall be made on a form prescribed by the commissioner. Such form shall be sent to the commissioner within 30 days of the date the company appoints such insurance agent...The certification fee shall not be returned for any reason, and failure of the company to certify an insurance agent within 30 working days of such insurance agent's appointment shall subject the company to a penalty of not more than \$25 per calendar day from

the date the appropriate return was required from the date of appointment to the date proper certification is recorded by the insurance department.

9. K.A.R. 40-4-23 provides, in part:

(b) Each authorized issuer of accident and sickness insurance contracts and each authorized insurance agent who solicits, negotiates or procures such insurance within this state shall meet the following requirements: ...

(3) The agent or insurer shall provide to the prospective purchaser before or with the delivery of a contract, a dated outline of coverage describing the elements of the contract including: ...

(E) the premiums for the accident and sickness insurance policy and a separate listing of the premiums for each optional or supplemental benefit provided by the contract;

...

(c) Unfair or deceptive acts or practices in the selling of the insurance subject to this regulation shall include:

(1) Making any misrepresentation or false, deceptive or misleading statement;

(2) using comparisons or analogies or manipulating amounts and numbers in a way that will mislead the prospective purchaser concerning the cost of the insurance protection

10. K.A.R. 40-9-100 provides, in part:

Section 15. Group or Quasi-Group Implications

(D) An advertisement to join an association, trust or discretionary group that is also an invitation to contract for insurance coverage shall clearly disclose that the applicant will be purchasing both membership in the association, trust or discretionary group and insurance coverage. The insurer shall solicit insurance coverage on a separate and distinct application that requires a separate signature. The separate and distinct applications required need not be on separate documents or contained in a separate mailing. The insurance program shall be presented so as not to conceal the fact that the prospective members are purchasing insurance as well as applying for membership, if that is the case. Similarly, it is prohibited to use terms such as "enroll" or "join" to imply group or blanket insurance coverage when that is not the fact.

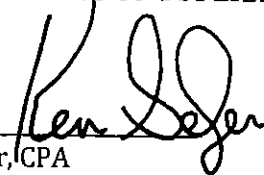
Conclusions of Law and Orders

Based on the Stipulated Findings of Fact enumerated in Paragraphs #1 through #15 and the applicable law cited above, **THE COMMISSIONER OF INSURANCE MAKES THE FOLLOWING ORDERS:**

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-222, and shall retain jurisdiction to issue any further orders deemed necessary.
2. The Report of Market Conduct Examination, including recommendations of examiners, is incorporated into this Consent Agreement by reference. The Examination will be published thirty days after service of final Order.
3. By agreement of the parties, KID shall impose a fine of \$200,000 for the purported violations of Kansas law. KID agrees to suspend the payment of \$100,000, of the total fine pending no finding of same or similar systemic violations of Kansas law within five years after the date of this Order. If after five years from the date of this Order, there being no further finding of the same or similar systemic violations of Kansas law as determined by the Commissioner of Insurance, the suspended amount of \$100,000 will be permanently forgiven.
4. Companion neither admits nor denies the violations noted above.

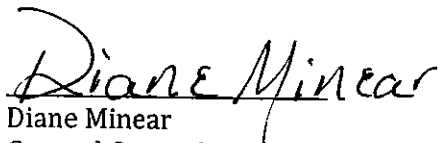
IT IS SO ORDERED THIS 13th DAY OF NOVEMBER, 2017, IN THE CITY OF TOPEKA,
STATE OF KANSAS.





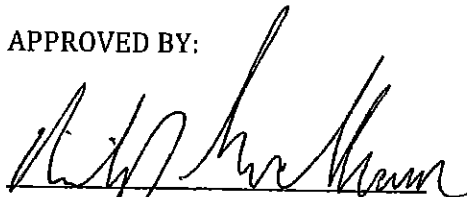
Ken Selzer, CPA
Commissioner of Insurance

BY:



Diane Minear
General Counsel

APPROVED BY:



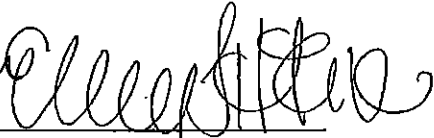
J. Philip Gardham
President, Companion Life Insurance Company
7909 Parklane Road, Suite 200
Columbia, SC 29223

Certificate of Service

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing **Consent Order** on this 16th day of November, 2017, by email addressed to the following:

J. Philip Gardham
President, Companion Life Insurance Company
7909 Parklane Road, Suite 200
Columbia, SC 29223

philip.gardham@companiongroup.com


Elizabeth J. Hickert Fike
Staff Attorney