

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

In the Matter of)
Midwest Family Mutual)
Insurance Company)

NAIC # 23574)

Docket No. 4968-CO

CONSENT AGREEMENT AND FINAL ORDER
(Pursuant to K.S.A. 40-955 and K.S.A. 77-537 *et seq.*)

Now on this 9th day of January, 2017, the Kansas Insurance Department ("KID") and Midwest Family Mutual Insurance Company ("Midwest Family") come before the Commissioner for formal disposition of the above captioned matter. The parties submit a proposed Consent Agreement and Final order for adoption, rejection, or modification pursuant to the provisions of K.S.A. 77-537.

KID and Midwest Family wish to resolve this matter by entering into this Consent Agreement and Final Order. Midwest Family hereby waives any and all rights to further administrative adjudication or review of this matter, including any and all rights conferred upon it under K.S.A. 77-507 *et seq.* This Consent Agreement and Final Order shall constitute the final disposition of this matter. Pursuant to authority granted to the Commissioner of Insurance by K.S.A. 40-955 and in accordance with K.S.A. 77-537, the Commissioner hereby adopts the proposed Consent Order and admonishes and assesses penalty against Midwest Family for using commercial umbrella forms without prior KID approval. This Order shall become effective as a Final Order, without further notice, when signed by the Commissioner or his designee and filed of record with KID.

Findings of Fact

1. Midwest Family is located at 1711 Osceola Ave., Ste. 212, Chariton, IA 50049.
2. Midwest Family has been authorized to transact and has continuously transacted insurance business in the state of Kansas since April 1, 2011.
3. In October 2016, the KID Property and Casualty Division discovered that Midwest Family was filing revisions to commercial umbrella forms that had not been approved by KID.
4. KID contacted Midwest Family and explained that the initial filing should not have been used before it was approved.
5. Midwest Family has subsequently filed all amendments necessary to have the commercial umbrella forms approved.

Applicable Law

6. K.S.A. 40-2,125 provides:
 - (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.
7. K.S.A. 40-955 provides, 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, except that disclosure shall not be required for any information contained in a filing or in any supporting documentation for the filing when such information is either a trade secret or copyrighted.

Conclusions of Law

Based on the Findings of Fact enumerated in Paragraphs 1 through 5, and the applicable law, the Commissioner finds as follows:

8. The Commissioner has jurisdiction over Midwest Family as well as the subject matter of this proceeding, and such proceeding is held in the public interest.
9. Midwest Family has violated K.S.A. 40-955 by using commercial umbrella forms that without prior KID approval.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT

10. Pursuant to K.S.A. 40-2,125, Midwest Family is ordered to pay an administrative penalty in the amount of \$1,000 for the aforementioned violation of K.S.A. 40-955.
11. Midwest Family shall **cease and desist** from employing commercial umbrella forms which have not been granted prior KID approval.

IT IS SO ORDERED THIS 22nd DAY OF February ~~JANUARY~~ 2017, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



Ken Selzer, CPA
Commissioner of Insurance

BY:

John Wine
Assistant Commissioner

Midwest Family Mutual Insurance Company

By:

Aaron Boyd
Executive VP/COO

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served the above and foregoing Consent Order on this _____ day of _____, 2017, by causing the same to be deposited in the United States Mail, first-class postage prepaid, addressed to the following:

Jennifer Ray, R&D Analyst
3033 Campus Drive, Ste. 195E
Plymouth, MN 55441

Susan Ellmaker, Staff Attorney