

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

In the Matter of)
AMERICAN CONTINENTAL)
INSURANCE COMPANY)
NAIC # 12321)

Docket No.: 77687-CO

CONSENT AGREEMENT AND FINAL ORDER
(Pursuant to K.S.A. 40-222, K.S.A. 40-4912(a) and K.S.A. 77-537)

The Kansas Insurance Department (“KID”) and American Continental Insurance Company (“American” or “Company”) submit this Consent Agreement and Final Order. American 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. 77-501-566. Pursuant to the authority conferred in K.S.A. 40-222 upon her as Commissioner of Insurance (“Commissioner”), Vicki Schmidt adopts this agreement made with American and finds and Orders as follows:

Allegations

The parties stipulate that if a hearing were conducted in this matter, the following information could be offered by the Commissioner, and although neither admitted nor denied by Respondent, may be recognized as admissible to show the following:

1. American is domiciled in Franklin, Tennessee and has been authorized to do business in Kansas since 2007.
2. KID initiated a market conduct inquiry regarding concerns over several 2017 market conduct annual statement ratios. Upon review, it was determined that 31 life applications were issued by 12 unappointed producers.
3. The Company provided a response advising:

- a. four appointment lapses stemmed from employees not understanding that terminating the health appointment line of authority also terminated the life appointment;
- b. in two cases, the employees did not follow standard operating procedures for processing appointments;
- c. in five cases, the producer lost their agency affiliation; and
- d. in one case, the existing appointment was cancelled in error.

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.
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.

3. K.S.A. 40-4912 (a) 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.

4. K.S.A. 40-4905 (a) provides:

Subject to the provisions of K.S.A. 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.

5. K.S.A. 40-239 provides, in part:

An insurance agent is hereby defined to be an individual, corporation, association, partnership or other legal entity authorized in writing, by any insurance company or health maintenance organization lawfully qualified to transact the business of insurance, suretyship or indemnity in this state or authorized to operate as a health maintenance organization in this state, to negotiate or effect contracts of insurance, suretyship or indemnity on behalf of any such insurance company or health maintenance organization; or any member of a partnership or association, or any stockholder, officer or agent of a corporation, permitted by law to negotiate or effect such contracts, where such partnership, association or corporation holds a direct agency appointment from any insurance company or health maintenance organization. All such agents shall thereby become liable to all the duties, requirements, liabilities and penalties as provided in this code.

Conclusions of Law and Orders

Based on information enumerated in Allegations #1 through #4 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. American shall pay a monetary penalty of \$3,000 for the alleged violations of Kansas law.
3. American shall cease and desist from taking life applications from unappointed producers.
4. American neither admits nor denies the violations noted above.

IT IS SO ORDERED THIS 28th DAY OF ~~APRIL~~ ^{JUNE} 2019, IN THE CITY OF TOPEKA, STATE OF KANSAS.

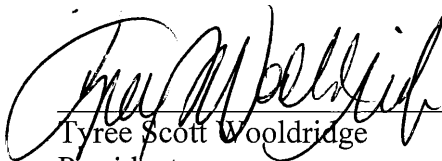


Vicki Schmidt
Commissioner of Insurance

BY:


Justin L. McFarland
General Counsel

APPROVED BY:


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