

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

In the Matter of )  
AUTO-OWNERS (MUTUAL) )  
INSURANCE COMPANY )  
NAIC # 18988 )  
and )  
OWNERS INSURANCE COMPANY )  
NAIC # 32700 )

**Docket No.: 79510**

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

The Kansas Insurance Department (“the Department”), Auto-Owners (Mutual) Insurance Company (“Auto”) and Owners Insurance Company (“Owners”) submit this Consent Agreement and Final Order. Auto and Owners hereby waive 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 *et seq.* Pursuant to the authority conferred upon the Commissioner of Insurance in K.S.A. 40-222, Vicki Schmidt, the duly elected, qualified and serving Commissioner of Insurance, hereby adopts the Department’s agreement made with Auto and Owners and makes the following findings and Orders:

**Allegations**

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

1. Auto is domiciled in Michigan and has been authorized in Kansas since 1958.
2. Owners is domiciled in Ohio and has been authorized in Kansas since 1966.
3. On or about October 2, 2018, after previously contacting the Department, Auto and Owners submitted a series of six filings containing fifteen commercial forms that Auto and Owners had already put into use, but were not previously filed.

4. The Market Regulation Division (“Market Regulation”) wrote to Auto and Owners on October 22, 2018, in order to address concerns that the companies may be using additional unfiled forms, requesting:
  - a. A complete listing of all of the commercial forms currently in use that have not yet been approved for use by the Department; and
  - b. The number of Kansas policies affected.
5. Market Regulation reviewed a sample consisting of twenty-five percent of the forms from each of the remaining lines of business and requested that Auto and Owners research the filing status of each of the forms in the sample. Auto and Owners provided evidence of filing for all but two of the forms in the sample. Both of those forms have now been filed.
6. Additionally, it was discovered that Auto and Owners were operating under the misconception that certain schedule-type forms are not required to be filed. The Department inquired as to whether the companies were using any other forms of this type that had not been filed and found three. All three of these forms have now been filed.

#### **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. 40-216 provides, in part:
  - (a) (1) No insurance company shall hereafter transact business in this state until certified copies of its charter and amendments thereto shall have been filed with and approved by

the commissioner of insurance. A copy of the bylaws and amendments thereto of insurance companies organized under the laws of this state shall also be filed with and approved by the commissioner of insurance. The commissioner may also require the filing of such other documents and papers as are necessary to determine compliance with the laws of this state.

3. K.S.A. 40-955 provides, in 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. For the purposes of this section, the term "trade secret" shall have the meaning ascribed to it in K.S.A. 60-3320, and amendments thereto. 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.

4. 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.

#### **Conclusions of Law and Orders**

Based on the information enumerated in Paragraphs #1 through #9 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. Auto and Owners neither admits or denies stated violations, as enumerated above.
3. Auto and Owners shall pay a monetary penalty of \$10,000 total for violations of Kansas law.
4. Auto and Owners shall comply with recommendations of examiners and contact the Property/Casualty Division with any further questions.

**IT IS SO ORDERED THIS 26<sup>th</sup> DAY OF DECEMBER, 2019, IN THE CITY OF TOPEKA, STATE OF KANSAS.**



BY:

Justin L. McFarland  
General Counsel

APPROVED BY:

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**Certificate of Service**

The undersigned hereby certifies that she served the above and foregoing Consent Agreement and Final Order on this 26th day of December 2019, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

William W. Sneed, JD  
Sneed Law Firm, LLC.  
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Senior Administrative Assistant