

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

In the Matter of)
DELAWARE LIFE INSURANCE)
COMPANY)
NAIC # 79065)

Docket No.: 75164

CONSENT AGREEMENT AND FINAL ORDER
(Pursuant to K.S.A. 40-222 and K.S.A. 77-501)

The Kansas Insurance Department (“KID”) and Delaware Life Insurance Company (“Delaware Life” or “Respondent”) submit this Consent Agreement and Final Order. Delaware Life hereby waives any and all rights to 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, Ken Selzer, CPA, the duly elected, qualified and serving Commissioner of Insurance, hereby adopts the KID’s agreement made with Delaware Life, finds, and orders as follows:

Findings of Fact

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 Respondent, would be recognized as admissible to show the following:

1. Delaware Life has been authorized to do business in Kansas since 1974, and is domiciled in the state of Delaware.
2. Delaware Life’s block of in-force life insurance policies was transitioned to a third-party administrator in January 2015, and its block of in-force annuity contracts was transitioned in October 2015.
3. After the system conversions, KID received an increase in consumer complaints.
4. On January 7, 2016, KID sent an inquiry to Delaware Life based on the increase in complaints. In that response, Delaware Life provided a corrective action plan that was in the process of being implemented to address the issues.

5. Issues were identified with the timely and accurate administration of both Kansas and non-Kansas contracts.
6. In November 2017, Delaware Life provided an update to its corrective action plan in which it described a self-audit undertaken to validate the accuracy of claims that had been processed following the system conversions. The audit showed that no interest had been paid on any claims for Kansas residents. As a result, KID requested further information on claim handling procedures.
7. In April 2018, Delaware Life confirmed that there were 12 consumers impacted by claim underpayments. Delaware Life remitted \$2,575.77 in underpaid claims, plus \$739.62 in statutory interest. KID agreed to limit interest payments to only those amounting to more than \$5.00 per claim.

Applicable Law

8. 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;

9. K.S.A. 40-222(a) provides:

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.

10. K.S.A. 40-447(a) provides:

Notwithstanding any other provision of law, each insurer admitted to transact life insurance in the state of Kansas which fails or refuses to pay the proceeds of, or payments under, any

policy of life insurance issued by it within 10 days after the date of receipt of due proof of death in the manner and form requested by the policy, shall pay interest on any moneys payable and unpaid after the expiration of such 10-day period at an annual rate of not less than the current rate of interest on death proceeds left on deposit with the insurer plus 1% computed from the date of said receipt.

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

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

(9) *Unfair claim settlement practices.* It is an unfair claim settlement practice if any of the following or any rules and regulations pertaining thereto are: (A) Committed flagrantly and in conscious disregard of such provisions, or (B) committed with such frequency as to indicate a general business practice...

(c) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies...

(e) failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed...

(f) not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear.

12. K.S.A. 40-2407 provides:

(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.

Conclusions of Law and Orders

Based on the Findings of Fact enumerated in Paragraphs #1 through #7 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 for any further orders deemed necessary.
2. Delaware Life shall pay \$ 2,000 for the above stated violations of Kansas Law.

**IT IS SO ORDERED THIS 4th DAY OF JANUARY 2019, IN THE CITY OF TOPEKA,
STATE OF KANSAS.**



BY:

Diane Minear
Diane Minear
General Counsel


APPROVED BY:

Michael S. Bloom
Michael S. Bloom
Senior Vice President and General Counsel
Delaware Life Insurance Company

Certificate of Service

The undersigned hereby certifies that she served the above and foregoing Consent Agreement and Final Order on this 9th day of January 2019, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Michael S. Bloom
Senior Vice President and General Counsel
Delaware Life Insurance Company
1601 Trapelo Road Suite 30
Waltham, MA 02451



Toni Garrard
Senior Administrative Assistant