

**In the Matter of** )  
**KEY INSURANCE COMPANY** )  
**NAIC # 12966** )

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6. Within the complaint sample, the company failed to respond timely to the Kansas Insurance Department within the required time period in seven instances.
7. The claim handling portion of the exam involved reviewing a random sample of 150 claim files. Of the claims sampled, Examiners found 44 violations of state law.
8. The primary issue found was a failure to complete timely claim investigations, which resulted in 35 errors within the sample.
9. The remaining nine claim violations involved, failure to provide necessary claim forms, failure to notify claimants of decisions, failure to acknowledge communications in a timely manner, and one instance where Company made no attempt to effectuate settlement in good faith.
10. Examiners noted that claim data showed improvement over time, particularly as compared to a prior conducted examination in 2012.
11. Company was provided with a draft of the Examination report for an opportunity to review and respond to findings of the examiners, which was taken into account when finalizing the Report.

#### **Applicable Law**

1. K.S.A. 40-222(a) 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.
  - (b) In scheduling and determining the nature, scope and frequency of examinations of financial condition, the commissioner shall consider such matters as the results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, reports of independent certified public accountants and other criteria as set forth in the

examiner's handbook adopted by the national association of insurance commissioners and in effect when the commissioner exercises discretion under this subsection.

(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.

...

(g) The refusal of any company, by its officers, directors, employees or agents, to submit to examination or to comply with any reasonable written request of the examiners shall be grounds for suspension or refusal of, or nonrenewal of any license or authority held by the company to engage in an insurance or other business subject to the commissioner's jurisdiction. Any such proceedings for suspension, revocation or refusal of any license or authority shall be conducted in accordance with the provisions of the Kansas administrative procedures act.

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. 40-2404 Section 9 provides, in part:

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

4. K.S.A. 40-2404 Section 10 provides, in part:

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.

5. K.A.R. 40-1-34, Section 6 provides, in part:

(a) Every insurer, upon receiving notification of a claim shall, within ten working days, acknowledge the receipt of such notice unless payment is made within such period of time. If an acknowledgement is made by means other than writing, an appropriate notation of such acknowledgement shall be made in the claim file of the insurer and dated. Notification given to an agent of an insurer shall be notification to the insurer.

(b) Every insurer, upon receipt of any inquiry from the insurance department respecting a claim shall, within fifteen working days of receipt of such inquiry, furnish the department with an adequate response to the inquiry.

(c) An appropriate reply shall be made within ten working days on all other pertinent communications from a claimant which reasonably suggest that a response is expected.

(d) Every insurer, upon receiving notification of claim, shall promptly provide necessary claim forms, instructions and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this paragraph within ten working days of notification of a claim shall constitute compliance with Subsection A of this section.

6. K.A.R. 40-1-34, Section 7 provides, in part:

Every insurer shall complete investigation of a claim within thirty days after notification of claim, unless such investigation cannot reasonably be completed within such time.

7. K.A.R. 40-1-34, Section 8 provides, in part:

(a) Within fifteen working days after receipt by the insurer of properly executed proofs of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the

insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial.

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

Based on the Findings of Fact enumerated in Paragraphs #1 through #11 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. Key did commit stated violations of Kansas law, as enumerated above.
3. Key shall pay a monetary penalty of \$3,000 total for violations of Kansas law.
4. The Report of Market Conduct Examination, including recommendations of examiners, is incorporated into this Order by reference. Key shall comply with recommendations of examiners. The Report will be published thirty days after service of Final Order.

IT IS SO ORDERED THIS 27<sup>th</sup> DAY OF AUGUST 2019, IN THE CITY OF TOPEKA, STATE OF KANSAS.



Vicki Schmidt  
Commissioner of Insurance

BY:

  
Justin L. McFarland  
General Counsel

### **NOTICE AND OPPORTUNITY FOR HEARING**

Key Insurance Company, within fifteen (15) days of service of this Summary Order, may file with the Kansas Insurance Department a written request for hearing on this Summary Order, as provided by K.S.A. 77-542. In the event a hearing is requested, such request should be directed to:

Justin L. McFarland, General Counsel  
Kansas Insurance Department  
420 S.W. 9th Street  
Topeka, Kansas 66612

Any costs incurred as a result of conducting any administrative hearing shall be assessed against the agent/agency who is the subject of the hearing as provided by K.S.A. 40-4909(f). Costs shall include witness fees, mileage allowances, any costs associated with reproduction of documents which become part of the hearing record, and the expense of making a record of the hearing.

If a hearing is not requested, this Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period for requesting a hearing. The Final Order will constitute final agency action in the matter.


In the event the Respondent files a petition for judicial review, the agency officer designated pursuant to K.S.A. 77-613(e) to receive service of a petition for judicial review on behalf of the Kansas Insurance Department is:

Justin L. McFarland, General Counsel  
Kansas Insurance Department  
420 S.W. 9th Street  
Topeka, Kansas 66612

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing Summary Order on this 27th day of August 2019 by causing the same to be placed in the United States Mail, addressed to the following:

Key Insurance Company  
8595 College Blvd. Suite 200  
Overland Park, KS 66210-2617

  
Toni Garrard  
Senior Administrative Assistant