

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

**In the Matter of
SAGICOR LIFE
INSURANCE COMPANY
NAIC # 60445**

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Docket No.: 77686

SUMMARY ORDER

(Pursuant to K.S.A. 40-222, K.S.A. 40-2405, and K.S.A. 77-537)

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-222, K.S.A. 40-2405 and 2407, and K.S.A 77-537, the Commissioner hereby assesses a monetary penalty against Sagicor Life Insurance Company (“Sagicor” or “Company”) and orders Sagicor to cease and desist from contracting with agencies or marketing organizations that offer the company’s products without properly identifying Sagicor as the insurer. This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no request for hearing is made, pursuant to K.S.A. 77-542.

Findings of Fact

The Commissioner finds the following facts:

1. Sagicor, located at 901 Congress Avenue, Austin, Texas, is an insurance company licensed in Kansas.
2. Sagicor has been authorized to transact and has continuously engaged in transacting insurance business in the State of Kansas since August 17, 1979.
3. On October 16, 2018, the Department initiated a Market Conduct inquiry regarding concerns over advertising. Specifically, an advertisement from Safe Harbor Financial, Inc. (“Safe Harbor”) referenced the Sagicor Sage Secure Fixed Index Annuity. However, the advertisement did not list Sagicor as the carrier.

4. Sagicor provided a response on November 5, 2018 advising that it had appointed Safe Harbor as its independent agency and marketing organization.
5. In response to the Department inquiry, Sagicor requested that Safe Harbor immediately remove the offending material. Safe Harbor confirmed in writing that the material was removed from all public media.
6. The Department sent a proposed Consent Agreement and Order to Sagicor on May 20, 2019 with instructions to return the agreement and payment of the assigned fine if the agreement meets Sagicor's approval. Sagicor never returned the Consent Agreement and Order to the Department.

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.A.R. 40-9-118, through adoption of the Kansas Insurance Department's Policy and Procedure regarding advertisements of life insurance and annuities Section 6 provides, in part:
 - (A) The name of the insurer shall be clearly identified in all advertisements about the insurer or its products, and if any specific individual policy is advertised, it shall be identified either by form number or other appropriate description.
3. K.A.R. 40-9-118, through adoption of the Kansas Insurance Department's Policy and Procedure regarding advertisements of life insurance and annuities Section 3 provides, in part:

(B) All advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer, as well as the producer who created or presented the advertisement. Insurers shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. A system of control shall include regular and routine notification, at least once a year, to agents, brokers and others authorized by the insurer to disseminate advertisements of the requirement and procedures for company approval prior to the use of any advertisements that is not furnished by the insurer and that clearly sets forth within the notice the most serious consequence of not obtaining the required prior approval.

4. K.A.R. 40-9-118, through adoption of the Kansas Insurance Department's Policy and Procedure regarding advertisements of life insurance and annuities Section 4 provides, in part:

Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Commissioner of Insurance from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

5. K.S.A. 40-2405 provides, in part:

The commissioner shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in this state in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by K.S.A. 40-2403.

6. 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:

(2) Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio or television station, or in any other way, an advertisement, announcement or statement containing any assertion,

misrepresentation or statement with respect to the business of insurance or with respect to any person in the conduct of such person's insurance business, which is untrue, deceptive, or misleading.

7. K.S.A. 40-2407 provides, in part:

(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

The Commissioner has jurisdiction over Sagicor Life Insurance Company and the subject matter of this proceeding. Based on the findings of fact and applicable law cited above, **THE COMMISSIONER OF INSURANCE MAKES THE FOLLOWING ORDERS:**


1. Sagicor shall **PAY** a monetary penalty of \$2,000 for the violation of K.A.R. 40-9-118.
2. Sagicor shall **CEASE** and **DESIST** from contracting with agencies or marketing organizations that offer the company's products without properly identifying Sagicor as the insurer.

IT IS SO ORDERED THIS 30th 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

Sagikor Life 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 the above and foregoing Summary Order on this 30th day of August, 2019, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Bart Ferrell Catmull, President
Sagikor Life Insurance Company
901 Congress Avenue
Austin, TX 78701-2421



Toni Garrard
Senior Administrative Assistant