

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

In the Matter of)
EMPLOYERS MUTUAL)
CASUALTY COMPANY)
NAIC # 21415)

Docket No.: 81589

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

The Kansas Insurance Department (“the Department”) and Employers Mutual Casualty Insurance Company (“EMCC” or “Company”) submit this Consent Agreement and Final Order. EMCC hereby waives any and all rights to further administrative adjudication or review of this matter, including any and all rights established under K.S.A. 77-501, *et seq.* Pursuant to the authority granted to the Commissioner of Insurance in K.S.A. 40-222, Vicki Schmidt, the duly elected, qualified and serving Commissioner of Insurance (“Commissioner”), hereby adopts this agreement 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 Company, may be recognized as admissible to show the following:

1. EMCC is domiciled in Des Moines, Iowa and has been authorized to do business in Kansas since 1927.
2. On August 13, 2019, the Department initiated a market conduct investigation regarding the Company’s sales in Kansas, based upon similar investigations in other states.
3. The investigation found that from August 13, 2016 through August 13, 2019, 170 policies were issued from 58 separate producers not licensed in Kansas at the time of sale.

4. For the same period, 670 policies were issued from 161 producers not appointed at the time of sale.
5. Based on company response, 6 producers became licensed in Kansas after the date of sale, and 81 producers became appointed in Kansas after the date of sale.
6. EMCC has implemented system functionality that will eliminate manual license and appointment checks. The system will only allow policies to be issued if respective licensing and appointment requirements are met in the state for which the potential insured is a resident. The Company has centralized processes associated with agency contracts, producer onboarding and those included with agency and producer licensing and appointments.
7. Beginning in September 2019, the company ran reports and began manually mitigating gaps in compliance with licensing and appointment requirements in all states, not waiting for the system implementation noted in the prior item. These reports continue to be run to monitor the effectiveness of the system functionality. Company works to update issues immediately and mitigates gaps manually.
8. Company also is conducting internal compliance assessments on the licensing and appointment requirements at a minimum of two times per year.
9. Company provides regular status updates to its domestic regulator, The Iowa Insurance Division, regarding inquiries from foreign states and all remediation plans.

Applicable Law

1. K.S.A. 40-222 (a) provides:
 - (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. 40-4905 provides, in part:

(a) Subject to the provisions of K.S.A. 2018 Supp. 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.

...

4. K.S.A. 40-4912 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. The appointment shall be made on a form prescribed by the commissioner. Such form shall be sent to the commissioner within 30 days of the date the company appoints such insurance agent... The certification fee shall not be returned for any reason, and failure of the company to certify an insurance agent within 30 working days of such insurance agent's appointment shall subject the company to a penalty of not more than \$25 per calendar day from the date the appropriate return was required from the date of appointment to the date proper certification is recorded by the insurance department.

Conclusions of Law and Orders

Based on 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. EMCC shall Cease and Desist from employing unlicensed or unappointed agents for sales to Kansas residents.
3. The Department shall impose a monetary penalty of \$60,000 for the alleged violations of Kansas law, including penalties for unpaid appointment fees. Department will suspend half of the total penalty pending no finding of same or similar systemic violations of Kansas law within five years after the date of this Order. EMCC shall remit payment of the monetary penalty imposed within 10 days of the date this Order is entered. If, after five

years, no same or similar violations are found, as determined by the Commissioner of Insurance, the suspended amount shall be permanently forgiven.


4. EMCC neither admits nor denies the violations noted above.

IT IS SO ORDERED THIS 24th DAY OF June, 2020, IN THE CITY OF TOPEKA, STATE OF KANSAS.

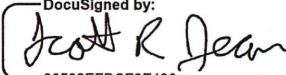


Vicki Schmidt
Commissioner of Insurance

BY:


Justin L. McFarland
General Counsel

APPROVED BY:

DocuSigned by:

39502EFD0F9E490...
Employers Mutual Casualty Company
Scott Jean
President
717 Mulberry Street
Des Moines, IA 50309-3810

NOTICE

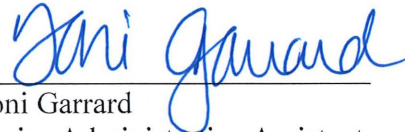
This Consent Order and Final Agency Order constitutes final agency action in the matter and is not subject to reconsideration. If a party desires to file a petition for judicial review, the agency officer designated pursuant to K.S.A. 77-613(e) to receive service of a petition for judicial review on behalf of the Kansas Insurance Department is:

Justin L. McFarland, General Counsel
Kansas Insurance Department
1300 SW Arrowhead Road
Topeka, Kansas 66604

Certificate of Service

The undersigned hereby certifies that she served the above and foregoing Consent Agreement and Final Order on this 24th day of June 2020, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Scott Jean
President
Employers Mutual Casualty Company
717 Mulberry Street
Des Moines, IA 50309-3810



Toni Garrard
Senior Administrative Assistant