

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

In the Matter of)	
MILBANK INSURANCE COMPANY)	Docket No.: 85466
NAIC # 41653)	

CONSENT AGREEMENT AND FINAL ORDER
(Pursuant to K.S.A. 40-222, 40-955 and K.S.A. 77-537)

The Kansas Insurance Department (“the Department”) and Milbank Insurance Company (“Milbank”) submit this Consent Agreement and Final Order. Milbank 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.* and K.S.A. 77-601, *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 Milbank 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 Milbank, would be recognized as admissible to show the following:

1. Milbank is domiciled in Iowa and has been authorized in Kansas since 2017.
2. Milbank Insurance Company submitted two dwelling fire filings on August 13 and 14, 2020. Milbank is a sister company to State Auto Property and Casualty Insurance Company (“State Auto”). Milbank reported that the company previously erroneously submitted the two dwelling fire filings under State Auto in August 2019 and April 2020. Milbank submitted the two new filings revising its dwelling fire program and asked to withdraw the State Auto filings.

3. Milbank reported that the two filings contain the same material that was submitted and approved under State Auto.
4. Milbank requested to have the effective dates backdated to the original effective date of the approved State Auto filings.
5. Milbank reported that the rate change of the previously approved filing will affect 1,498 policyholders and will have a rate impact of 3.3 percent.

Applicable Law

1. 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.

(d) Any other rate filing, except personal lines filings, shall become effective on filing or any prospective date selected by the insurer, subject to the commissioner disapproving the same if the rates are determined to be inadequate, excessive, unfairly discriminatory or otherwise fails to meet the requirements of this act. Personal lines rate filings shall be on file for a waiting period of 30 days before becoming effective, subject to the commissioner disapproving the same if the rates are determined to be inadequate, excessive, unfairly discriminatory or otherwise fail to meet requirements of this act. The term "personal lines" shall mean insurance for noncommercial automobile, homeowners, dwelling fire-and-renters insurance policies, as defined by the commissioner by rules and regulations. A filing complies with this act unless it is disapproved by the commissioner within the waiting period or pursuant to subsection (f).

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.

Conclusions of Law and Orders

Based on the information enumerated in Paragraphs #1 through #5 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. Milbank neither admits nor denies stated violations, as enumerated above.
3. Milbank shall pay a monetary penalty of \$2,500 total for violations of Kansas law.
4. Milbank shall comply with recommendations of examiners and contact the Property/Casualty Division with any further questions.

IT IS SO ORDERED THIS 20th DAY OF NOVEMBER, 2020, IN THE CITY OF TOPEKA, STATE OF KANSAS.



BY:

Justin L. McFarland
General Counsel

APPROVED BY:

Michael Edward LaRocco, President
Milbank Insurance Company
518 E. Broad Street
Columbus, OH 43215

Certificate of Service

The undersigned hereby certifies that she served the above and foregoing Consent Agreement and Final Order on this 20th day of November 2020, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Michael Edward Larocco, President
Milbank Insurance Company
518 E. Broad Street
Columbus, OH 43215

Toni Garrard
Senior Administrative Assistant