

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

In the Matter of)
METROPOLITAN PROPERTY)
AND CASUALTY INSURANCE)
COMPANY)
NAIC # 26298)
and)
METROPOLITAN CASUALTY)
INSURANCE COMPANY)
NAIC # 40169)

Docket No.: 84337

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

The Kansas Insurance Department (“the Department”), Metropolitan Property and Casualty Insurance Company (“Metropolitan Property”) and Metropolitan Casualty Insurance Company (“Metropolitan Casualty”) submit this Consent Agreement and Final Order. Metropolitan Property and Metropolitan Casualty 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 Metropolitan Property and Metropolitan Casualty 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 Metropolitan Property and Metropolitan Casualty, would be recognized as admissible to show the following:

1. Metropolitan Property is domiciled in Rhode Island and has been authorized in Kansas since 1974.
2. Metropolitan Casualty is domiciled in Rhode Island and has been authorized in Kansas since 1983.

3. While reviewing Metropolitan Property and Metropolitan Casualty's filing (METX-132273783), the Department noted that the company updated Personal Financial Management ("PFM") Score Levels. The Department was unable to determine which PFM levels applied to files in which there is no credit information on an individual or only sparse information is available (No Hit/Thin files).
4. The Department sent an objection on March 10, 2020 asking that the company confirm that the company assigns a neutral factor to no hit/thin files as required by K.S.A. 40-5104(e) as this information could not be located in the file. The company responded on March 19, 2020 stating that the company does assign neutral factors for these files.
5. The Department sent a second objection on April 7, 2020 stating, "Please advise where the neutral factors can be found with regards to no hit/thin files or where this is further explained within the Rate/Rule manual to ensure compliance with K.S.A. 40-5104(e)." The company responded on April 14, 2020 stating, "While we thought we were rate neutral with regard to credit no hits, a deeper review showed that over time what had been initially intended as a rate neutral approach has unintentionally changed."
6. The Department sent another objection April 15, 2020 asking for information regarding the impact on policyholders. The company responded on April 22, 2020, stating that they believed this issue affected 159 policyholders, with the oldest dating back to July 30, 2006. The company estimated the total impact to be about \$20,000. The company could not determine the exact premium impact at that time. The Department asked the company to submit a new filing to include the actual policyholder impact by June 30, 2020.
7. Metropolitan Property and Metropolitan Casualty responded on June 29, 2020, stating that the company completed its determination of policies affected. After a manual review of each policy, the company processed refunds to 148 policies, totaling \$40,901.00.

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.

2. K.S.A. 40-5104 provides, in part:

No insurer authorized to do business in the state of Kansas which uses credit information to underwrite or rate risks, shall:

- (a) Use an insurance score that is calculated using income, address, zip code, race, religion, color, sex, disability, national origin, ancestry or marital status of the consumer as a factor.
- (b) Without consideration of any other applicable underwriting factor independent of credit information and not expressly prohibited in subsection (a), refuse to quote, deny, cancel or refuse to renew any policy of personal insurance solely on the basis of credit information.

- (c) Without consideration of any applicable factor independent of credit information, base an insured's renewal rates for personal insurance solely upon credit information.
- (d) Without consideration of any other applicable factor independent of credit information, take an adverse action against a consumer solely because such consumer does not have a credit card account.
- (e) Consider an absence of credit information or an inability to calculate an insurance score in underwriting or rating personal insurance, unless the insurer does one of the following.
 - (1) Treat the consumer as if the applicant or insured had neutral credit information, as defined by the insurer; or
 - (2) exclude the use of credit information as a factor and use only other underwriting criteria.
- (f) Take an adverse action against a consumer based on credit information, unless an insurer obtains and uses a credit report issued or an insurance score calculated within 90 days from the date the personal insurance policy is first written or notice of renewal is issued.

3. 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 #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 to issue any further orders deemed necessary.
2. Metropolitan Property and Metropolitan Casualty neither admits nor denies stated violations, as enumerated above.
3. Metropolitan Property and Metropolitan Casualty shall pay a total of \$2,000 within 30 days of the effective date of this order.

IT IS SO ORDERED THIS 9th DAY OF ~~August~~ ^{September}, 2021, IN THE CITY OF TOPEKA, STATE OF KANSAS.



BY:


Justin L. McFarland
General Counsel

APPROVED BY:

Victoria L. McCarthy

Metropolitan Property and
Casualty Insurance Company (Farmers
Property and Casualty Insurance Company)

Victoria L. McCarthy

Metropolitan Casualty Insurance
Company (Farmers Casualty 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 ~~August~~ September 2021, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Metropolitan Property and
Casualty Insurance Company
700 Quaker Lane
Warwick, RI 02886-6681

AND

Metropolitan Casualty Insurance Company
700 Quaker Lane
Warwick, RI 02886-6681
Respondents



Toni Garrard
Senior Administrative Assistant