

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

In the Matter of the Kansas Excess Lines)
Insurance Producer License of)
KEVIN WARE)
NPN # 16979937)
Docket No. 89012

CONSENT AGREEMENT AND ORDER

(Pursuant to K.S.A. 40-246b, K.S.A. 40-246c, K.S.A. 40-4909 and K.S.A. 77-501 *et seq.*)

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-103 and in accordance with K.S.A. 40-246c, K.S.A. 40-246d, K.S.A. 40-4909, and K.S.A. 77-501 *et seq.*, the Commissioner hereby accepts the stipulations of the parties, and imposes sanctions against the license of **KEVIN WARE** (“Respondent”). This Consent Agreement shall become effective as a Final Order, without further notice when signed by the Commissioner or her designee and filed of record with the Kansas Insurance Department (“Department”).

FINDINGS OF FACT

1. Respondent was issued a Kansas excess lines license on March 18, 2020 and remains licensed to date.
2. Respondent’s address of record is [REDACTED] Chicago, IL [REDACTED]
[REDACTED]
3. Respondent failed to file his 2020 Excess Lines Report and Tax Remittance prior to March 1, 2021, as required by K.S.A. 40-246c.
4. On April 12, 2021, the Department sent a notice to Respondent by mail notifying him the 2020 Excess Lines Report and Tax Remittance must be filed and a monetary penalty would

be assessed due to the failure to timely file. The notice stated further action would be taken for failure to file his excess lines report, pay the tax remittance, and pay the monetary penalty.

5. On May 4, 2021, the Department sent a second notice to Respondent by mail notifying he must file the excess lines report, pay the tax remittance, and pay the monetary penalty within fifteen (15) days of the date of the letter. The Department also notified him that failure to do so may result in revocation of his excess lines license.

6. On May 21, 2021, the Department sent an email to Respondent notifying him the failure to file the excess lines report, pay the tax remittance, and pay the monetary penalty by May 28, 2021 would result in revocation of his excess lines license.

7. On June 11, 2021, the Department issued an administrative action revoking Respondent's excess lines license for failure to file the 2020 Excess Lines Report and Tax Remittance.

8. On June 30, 2021, after finding that the administrative action had not yet been delivered by certified mail, the Department emailed Respondent a copy of the administrative action issued on June 11, 2021.

9. Before the June 11, 2021 action became final and effective, on July 1, 2021, Joanna Klahr, acting on behalf of Respondent, requested a hearing to appeal the revocation of Respondent's excess lines license.

10. On July 1, 2021, Respondent filed the 2020 Excess Lines Report and Tax Remittance which was a \$0 filing.

APPLICABLE LAW

K.S.A. 40-246c(c) provides:

The individual responsible for filing the statement shall be the agent who signs the policy or the agent of record with the company. The Commissioner of insurance may assess a

penalty up to double the amount of tax prescribed in subsection (a) from any licensee or other individual responsible for filing the statement as described in this subsection who fails, refuses or neglects to transmit the required affidavit or statement or fails to pay the tax imposed by this section to the Commissioner within the period specified.

K.S.A. 40-246b provides:

The Commissioner may revoke or suspend any license issued pursuant to the provisions of this act in the same manner and for the same reasons prescribed by K.S.A. 2020 Supp. 40-4909, and amendments thereto.

K.S.A. 40-4909(a)(2)(A) provides:

The Commissioner may deny, suspend, revoke or refuse renewal of any license issued under this act if the commissioner finds that the applicant or license holder has violated any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder.

K.S.A. 40-4909(b) provides:

The Commissioner may suspend, revoke or refuse renewal of an insurance producer's license upon finding that the interests of the insurer or the insurable interests of the public are not properly served under Respondent's license.

K.S.A. 40-4909(h) provides:

In lieu of taking any action under subsection (a), the Commissioner may:

- (1) Censure the person; or
- (2) Issue an order imposing an administrative penalty up to a maximum of \$500 for each violation but not to exceed \$2,500 for the same violation occurring within any six consecutive calendar months from the date of the original violation unless such person knew or should have known that the violative act could give rise to disciplinary action under subsection (a). If such person knew or reasonably should have known the violative act could give rise to any disciplinary proceeding authorized by subsection (a), the commissioner may impose a penalty up to a maximum of \$1,000 for each violation but not to exceed \$5,000 for the same violation occurring within any six consecutive calendar months from the date of the imposition of the original administrative penalty.

CONCLUSIONS OF LAW

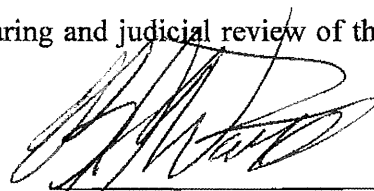
1. The Commissioner has jurisdiction over **KEVIN WARE** as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

2. The Commissioner finds that Respondent failed to timely file his 2020 Excess Lines Report and Tax Remittance.

3. The Commissioner finds the proposed remedy of a monetary penalty in lieu of revocation of Respondent's Kansas excess lines license adequately protects the interests of insurers and the insurable interests of the public in Kansas.

STIPULATION

The undersigned stipulates and agrees to the above findings, facts, and conclusions of law and waives their rights to an administrative hearing and judicial review of the Commissioner's Order.



Kevin Ware
Respondent

7/12/2021
Date

Prepared by:



Nicole K. Turner #28442
Staff Attorney
Kansas Insurance Department

ORDER

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE

THAT:

1. Respondent shall pay a monetary penalty of \$100 for failure to timely file his 2020 Excess Lines Report and Tax Remittance.

2. The monetary penalty of \$100 shall be paid in full by July 15, 2021. Failure to pay shall void this Consent Agreement and Order. Respondent will be ordered to show cause as to why his excess lines license should not be revoked.

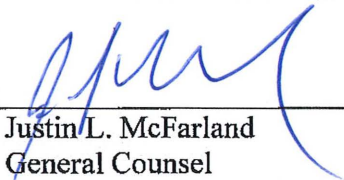
3. This Order shall take effect when signed by all parties and the Commissioner or the Commissioner's designee and filed of record with the Kansas Insurance Department.

4. Respondent shall disclose the existence of this Order on any company or licensing authority application as a disciplinary action involving the license.

IT IS SO ORDERED THIS 12th DAY OF JULY 2021, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



VICKI SCHMIDT
COMMISSIONER OF INSURANCE

BY: 
Justin L. McFarland
General Counsel

NOTICE REGARDING JUDICIAL REVIEW

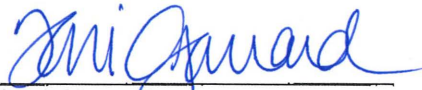
In the event Respondent files a Petition for Judicial Review, the agency officer designated pursuant to K.S.A. 77-613(e) to receive personal service of a petition for judicial review on behalf of the Kansas Insurance Department is:

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

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served the above-and-foregoing Consent Agreement and Order on this 24th day of July 2021, by causing the same to be deposited in the United States Mail, certified, addressed to the following:

Kevin Ware
BHI Digital, LLC.
1 South Dearborn Street, Floor 21
Chicago, IL 60603
Mailing Address



Toni Garrard
Senior Administrative Specialist