

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

**In the Matter of
RESERVE NATIONAL
INSURANCE COMPANY
NAIC # 68462**

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Docket No.: 80480

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 Reserve National Insurance Company (“Reserve” or “Company”) submit this Consent Agreement and Final Order. Reserve hereby waives 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.* 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 Reserve and finds and Orders as follows:

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 Reserve, would be recognized as admissible to show the following:

1. Reserve is domiciled in Oklahoma and has been authorized in Kansas since 1976.
2. A recent consumer complaint revealed issues regarding delays in Reserve’s processing of claims. The Department’s market regulation division contacted the company on May 23, 2019 and requested additional information regarding the delays.
3. Reserve indicated from May 23, 2016 to May 23, 2019 there were a total of 2,604 Kansas claims where late claim interest was due.

4. The total amount paid for the 2,604 claims in question was \$3,114,629.69 and 804 claims were paid 100 or more days after the clean claim date.
5. Reserve advised that the increased number of claims where late claim interest was due resulted largely from a greater-than-expected increase in its volume of Electronic Data Interchange (EDI) claims in 2016 and a system compatibility issue triggered by a migration of its servers identified shortly thereafter.
6. Reserve advised that it contracted with outside resources to receive, review and pay claims as necessary; tested and introduced new automation technology; and increased on-site claims staffing. While Reserve does not utilize a formal claims manual, the company provides continued training for claims reviewers through access to products, policy benefits and provisions, interest requirements and applicability, claims systems operations training, instruction on timely payment of claims and other applicable training as needed.
7. Reserve advised that increased claims staffing and new automation technology are expected to remain in place to ensure that the solutions used to resolve the claims issue will help the company withstand future unforeseen events.

Applicable Law

1. K.S.A. 40-222(a) 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.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. 40-2442 provides, in part:

(a) Within 30 days after receipt of any claim, and amendments thereto, any insurer issuing a policy of accident and sickness insurance shall pay a clean claim for reimbursement in accordance with this section or send a written or electronic notice acknowledging receipt of and the status of the claim. Such notice shall include the date such claim was received by the insurer and state that:

- (1) The insurer refuses to reimburse all or part of the claim and specify each reason for denial; or
- (2) additional information is necessary to determine if all or any part of the claim will be reimbursed and what specific additional information is necessary.

(b) If any insurer issuing a policy of accident and sickness insurance fails to comply with subsection (a), such insurer shall pay interest at the rate of 1% per month on the amount of the claim that remains unpaid 30 days after the receipt of the claim. The interest paid pursuant to this subsection shall be included in any late reimbursement without requiring the person who filed the original claim to make any additional claim for such interest.

...

(g) Any violation of this act by an insurer issuing a policy of accident and sickness insurance with flagrant and conscious disregard of the provisions of this act or with such frequency as to constitute a general business practice shall be considered a violation of the unfair trade practices act in K.S.A. 40-2401 et seq., and amendments thereto.

4. 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.

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

(9) *Unfair claim settlement practices.* It is unfair claims settlement practice if any of the

following or any rules and regulations pertaining thereto are either committed flagrantly and in conscious disregard of such provisions, or committed with such frequency as to indicate a general business practice:

...

(b) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

...

Conclusions of Law and Orders

Based on the Findings of Fact 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. Reserve neither admits nor denies the violations noted above.
3. Reserve shall pay a monetary penalty of \$25,000 total for violations of Kansas law.
4. Respondent shall cease and desist from engaging in practices in violation of Kansas law.
5. Reserve shall comply with recommendations of the Department's examiners as outlined in the confidential letter sent to Reserve on [date].

IT IS SO ORDERED THIS 27th DAY OF MAY ~~APRIL~~, 2020, IN THE CITY OF TOPEKA, STATE OF KANSAS.



BY:

/s/ Justin L. McFarland
Justin McFarland
General Counsel

APPROVED BY:



Charles R. Steele

President

Reserve National Insurance Company

601 E. Britton Rd.

Oklahoma City, OK 73114-7710

RIGHT TO JUDICIAL REVIEW

Pursuant to K.S.A. 40-251, this action of the Commissioner of Insurance is subject to review in accordance with the Kansas Judicial Review Act. The action for review shall be against the Commissioner of Insurance in her representative capacity and not in her individual name.

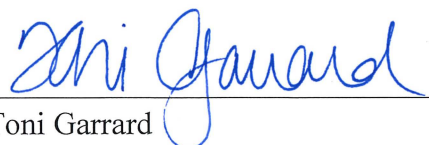
Pursuant to K.S.A. 77-601 et seq. any party is entitled to judicial review to the extent that this order constitutes final agency action. The petition for judicial review must be filed within thirty (30) days of service of this Order. In the event a party files a petition for judicial review pursuant to K.S.A. 77-613(e), the Agency Officer 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 a true and correct copy of the above and foregoing Consent Agreement and Final Order on this 31st day of May, 2020 by causing the same to be placed in the United States Mail, addressed to the following:

Charles R. Steele
President
Reserve National Insurance Company
601 E. Britton Rd.
Oklahoma City, OK 73114-7710



Toni Garrard
Senior Administrative Assistant