

FINAL ORDER

Effective: 07-12-10

BEFORE THE COMMISSIONER OF INSURANCE OF THE STATE OF KANSAS

In the Matter of:)
S. Darlene Merrill)
NPN 6122409)

Docket No. 4149-SO

SUMMARY ORDER

Pursuant to the authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 40-2,125 *et seq.* and in accordance with K.S.A. 77-537, the Commissioner hereby admonishes and assesses penalty against S. Darlene Merrill (Hereinafter “Merrill”) for a violation of the applicable provisions of the Kansas Insurance statutes. This Summary Order shall become effective as a Final Order, without further notice, upon the expiration of the fifteen (15) day period if no hearing is requested, pursuant to K.S.A. 77-542.

Findings of Fact

The Commissioner has been shown the following facts:

1. Merrill is licensed and authorized to transact the business of insurance in the State of Kansas with his home office located at HC 1 Box 143, Elkhart, KS 67950-9108, and is subject to statutes regulating the business of insurance to Kansas residents in the state of Kansas.
2. The Commissioner of Insurance (“the Commissioner”) has jurisdiction over the subject matter of this proceeding, and this proceeding is held in the public interest.
3. That Merrill has failed to file a statement as required by K.S.A. 40-246c.
4. That on March 29, 2010, Merrill was notified by letter pursuant to Nelson v. Miller, 233 Kan. 122, 660 P.2d 1361, 1983, that KID considered the failure to file the annual statement, as required, to be in violation of Kansas law and could result in administrative action being taken against him if he did not file the statement.

5. That to date Merrill has not responded to the Nelson v. Miller letter sent by KID on March 29, 2010, and further, he has not filed the required statement.

Applicable Law

1. K.A.R. 40-246c states, in the relevant part:

“Each licensed agent shall file with the commissioner on or before March 1 of each year a statement on a form prescribed by the commissioner. . . The individual responsible for filing the statement shall be the agent who signs the policy or the agent of record with the company. . . “

2. K.S.A. 40-2,125 states, in pertinent 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:

(b) If any person fails to file any report or other information with the commissioner as required by statute or fails to respond to any proper inquiry of the commissioner, the commissioner, after notice and opportunity for hearing, may impose a civil penalty of up to \$1,000, for each violation or act, along with an additional penalty of up to \$500 for each week thereafter that such report or other information is not provided to the commissioner.

Conclusions of Law

Based on the Findings of Fact in Paragraphs #1 through #5 and the applicable law as stated above,

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE:

1. S. Darlene Merrill ’s failure to file an annual statement as required constitutes a violation of K.S.A. 40-246c.

2. Pursuant to K.S.A. 40-2,125, S. Darlene Merrill shall pay a monetary penalty in the amount of One Hundred dollars (\$100) for the above-stated violation of K.S.A. 40-246c.

3. Commissioner shall retain jurisdiction over this matter to issue any Order(s) deemed necessary and appropriate.

NOTICE OF RIGHTS

S. Darlene Merrill is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If S. Darlene Merrill desires a hearing, he must file a written request for a hearing with:

John W. Campbell, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

This request must be filed within fifteen (15) days from the date of service of this Order. If S. Darlene Merrill requests a hearing, the Kansas Insurance Department will notify her of the time and place of the hearing and information on the procedures, right of representation, and other rights of parties relating to the conduct of the hearing, before commencement of the same. If a hearing is not requested in the time and manner stated above, this Summary Order shall become effective as a Final Order upon the expiration of time for requesting a hearing, pursuant to K.S.A. 77-613. In the event S. Darlene Merrill files a petition for judicial review, pursuant to K.S.A. 77-613(e), the agency officer to be served on behalf of the Kansas Insurance Department is:

John W. Campbell, General Counsel
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

IT IS SO ORDERED THIS 22nd DAY OF June, 2010, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/ Sandy Praeger
Sandy Praeger
Commissioner of Insurance

BY:

/s/ John W. Campbell
John W. Campbell
General Counsel

Certificate of Service

The undersigned hereby certifies that above and foregoing Summary Order was served via the United States Postal Service, first-class postage prepaid, on this 22nd day of June, 2010, addressed to the following:

S. Darlene Merrill
Hc 1 Box 143
Elkhart, KS 67950-9108

/s/ Mark A. Marion
Mark A. Marion
Staff Attorney