

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

In the Matter of the Kansas Agency License)	
of SOUTH KANSAS TITLE CORPORATION,)	Docket No. 2833-RAY
and the Kansas Resident Insurance Agent's)	Docket No. 2832-RA
License of MICHAEL S. DIXON)	

CONSENT ORDER

South Kansas Title Corporation (“South Kansas Title”) and Michael S. Dixon (“Dixon”) wish to resolve this matter without formal adjudicative proceedings by entering into this consent order. The Commissioner of Insurance (“Commissioner”) hereby makes the following findings of fact, conclusions of law, and order, to-wit:

Findings of Fact

1. South Kansas Title is an insurance agency with a current business address of 505 South Broadway, Suite 102, Wichita, Kansas 67202. South Kansas Title is incorporated in the State of Kansas and is licensed to transact the business of insurance as an insurance agency in the State of Kansas.

2. Records maintained by the Kansas Insurance Department (“KID”) indicate that Dixon is a resident of the State of Kansas; has a current mailing address of 2411 Hathway Circle, Wichita, Kansas 67226; is licensed to transact the business of insurance as a resident insurance agent in the State of Kansas and is the designated agent responsible for the management and operation of South Kansas Title, and for its compliance with the insurance laws, rules and regulations of the State of Kansas.

3. The Commissioner has jurisdiction over the subject matter of this proceeding and this proceeding is held in the public interest.

4. Robert G. Meckfessel (“Meckfessel”), is the president of First American Title Insurance Company of Kansas (“First American Title”), a Kansas domiciled insurer, with its administrative office located at 12360 Manchester Road, Suite 100, St. Louis, Missouri 63131.

5. Meckfessel was contacted by Dixon at his office by telephone on Thursday, January 13, 2000, requesting a meeting with him the following Monday, January 17, 2000, in St. Louis.

6. Dixon and South Kansas Title, which he owns, are licensed by KID to sell title insurance and were appointed agents to sell First American Title products.

7. Dixon contacted Meckfessel at his home in St. Louis, Missouri at approximately 10:30 a.m. on Monday, January 17, 2000, and they agreed to meet at a local restaurant at 11:30.

8. Meckfessel met with Dixon and another person who was introduced as “his friend, Jim” and they talked about general subjects for approximately an hour over lunch, at which point Meckfessel asked Dixon for his reason for asking for the meeting.

9. Dixon’s friend, Jim, then introduced himself as James Wilson (“Wilson”), Dixon’s attorney. Wilson asked Dixon to leave for a few moments, while he spoke with Meckfessel.

10. Wilson asked Meckfessel if First American Title would be interested in purchasing South Kansas Title. Meckfessel indicated that it would not be interested in such a purchase.

11. Wilson then asked Meckfessel to notify KID that First American Title was doing an audit and First American Title would complete the audit and surrender to KID

all of the information that First American Title found in that audit with the understanding that there would be a shortage.

12. Meckfessel replied to Wilson that First American Title would have to do a financial audit of South Kansas Title before it would accept responsibility for it.

13. Wilson then stated to Meckfessel that the audit would find South Kansas Title approximately \$1.4 million short in its escrow accounts and that KID would probably issue a cease and desist order against Dixon and South Kansas Title. Dixon returned and there was no further discussion in his presence except a reassurance from Meckfessel to do what he could.

14. Meckfessel later contacted executives of First American Financial Corporation (“First American Financial”), the parent corporation of First American Title for instructions about how to proceed and also called personnel at KID to report the information.

15. On January 19, 2000, Wilson and Dixon met with executives of First American Financial, Harry A. Fisher (“Fisher”), Director of Audit Services of First American Financial Corporation and Daniel P. Gomsrud (“Gomsrud”), Audit Services Manager of First American Title at Wilson’s office, 404 E. Central.

16. Wilson again explained that Dixon was looking for a buyer for his title insurance, closing and escrow service business and that it was worth approximately \$750,000 to \$800,000 with the title plant. The sale would help repay the loss to First American Title.

17. Wilson informed them that there would be a shortage of approximately \$1.4 million from the escrow accounts and that the employer’s portion of wage

withholding taxes to the federal government were not paid, but the employee's share of taxes had been paid.

18. Later that same morning, Fisher and Gomsrud met with Wilson and Dixon at a local diner in Wichita. Dixon agreed that there was a shortage of approximately \$1.4 million from the escrow accounts, all of which went into the operating account of his title, closing and escrow business, South Kansas Title.

19. Dixon further stated that he began diverting money from escrow accounts into the operations account in 1994 to meet payroll taxes obligations, etc.

20. South Kansas Title and Dixon do not have any appointments to transact the business of insurance by any insurance companies.

Conclusions of Law

21. K.S.A. 1999 Supp. 40-241 provides in relevant part:

“...If the commissioner of insurance finds that the individual applicant is trustworthy, competent and has satisfactorily completed the examination, the commissioner shall forthwith issue to the applicant a license as an insurance agent but the issuance of such license shall confer no authority to transact business in this state until the agent has been certified by a company pursuant to K.S.A. 40-241i, and amendments thereto...”

22. K.S.A. 1999 Supp. 40-242 provides in relevant part:

“(a) The commissioner of insurance may impose a penalty prescribed by subsection (e) or revoke or suspend the license of any broker or agent in the event that investigation by the commissioner discloses that...

(7) the interests of the insurer or the insurable interests of the public are not properly served under such license.”

23. K.S.A. 1999 Supp. 40-1137 provides in relevant part:

“A title insurance agent may operate as an escrow, settlement or closing agent, provided that:

(a) All funds deposited with the title insurance agent in connection with an escrow, settlement or closing shall be submitted for collection to, invested in or deposited in a separate fiduciary trust account or accounts in a qualified financial institution no later than the close of the next business day, in accordance with the following requirements:

(1) The funds shall be the property of the person or persons entitled to them under the provisions of the escrow, settlement or closing agreement and shall be segregated for each depository by escrow, settlement or closing in the records of the title insurance agent in a manner that permits the funds to be identified on an individual basis;

(2) the funds shall be applied only in accordance with the terms of the individual instructions or agreements under which the funds were accepted; and

(3) an agent shall not retain any interest on any money held in an interest-bearing account without the written consent of all parties to the transaction.

(b) Funds held in an escrow account shall be disbursed only:

(1) Pursuant to written authorization of buyer and seller;

(2) pursuant to a court order; or

(3) when a transaction is closed according to the agreement of the parties.

(c) A title insurance agent shall not commingle the agent's personal funds or other moneys with escrow funds. In addition, the agent shall not use escrow funds to pay or to indemnify against the debts of the agent or of any other party. The escrow funds shall be used only to fulfill the terms of the individual escrow and none of the funds shall be utilized until the necessary conditions of the escrow have been met...."

24. Based upon the information contained in paragraph 20 above, it appears that South Kansas Title and Dixon have not been certified or appointed by a company and, therefore, have no authority to transact the business of insurance in the State of Kansas, in violation of K.S.A. 40-241.

25. Based upon the information contained in paragraphs 4 through 20 above, it appears that South Kansas Title and Dixon have engaged in acts and practices in the business of insurance that are contrary to the interests of the insurer or the insurable interests of the public, and that such interests are not properly being served under the continued licensure of South Kansas Title and Dixon, all in violation of K.S.A. 1999 Supp. 40-242(7).

26. Based upon the information contained in paragraphs 4 through 19 above, it appears that South Kansas Title and Dixon used funds deposited with them for purposes other than what they were intended for, all in violation of K.S.A. 199 Supp. 40-1137.

27. Based upon the information contained in paragraphs 4 through 20 above, it appears that sufficient evidence exists for the revocation of South Kansas Title's insurance agency license and Dixon's insurance agent's license, pursuant to K.S.A. 1999 Supp. 40-242, K.S.A. 1999 Supp. 40-1137, K.S.A. 1999 Supp. 40-1141 and K.S.A. 1998 Supp. 40-2407, in accordance with the procedures set forth in the Kansas Administrative Procedure Act, K.S.A. 77-501, et seq., as amended.

28. South Kansas Title and Dixon admit to the allegations set forth herein this order as described above.

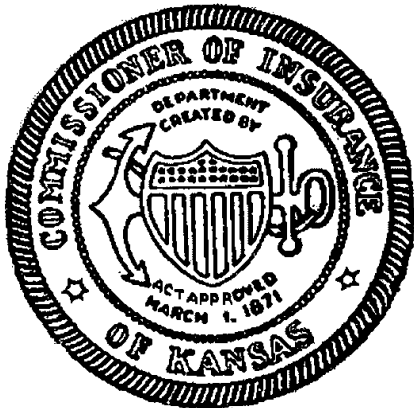
29. For the purposes of this Consent Order, South Kansas Title and Dixon waive their right to a formal adjudicative proceeding and notice thereof and, upon the

advice and assistance of counsel, voluntarily consents to the following order of the Commissioner of Insurance.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

1. The Kansas agency license of South Kansas Title Corporation and the Kansas resident insurance agent's license of Michael S. Dixon, are hereby revoked.

IT IS SO ORDERED THIS 27th DAY OF MARCH 2000 IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.



/s/ Kathleen Sebelius
Kathleen Sebelius
Commissioner of Insurance

BY:

/s/ Kathy Greenlee
Kathy J. Greenlee
General Counsel

/s/ Michael S. Dixon
Michael S. Dixon

South Kansas Title Corporation

BY:

/s/ Michael S. Dixon
Michael S. Dixon
Its Designated Officer

APPROVED BY:

/s/ James W. Wilson
James W. Wilson
Attorney for Respondent

SUBMITTED AND APPROVED BY:

/s/ JaLynn Copp
JaLynn Copp
Attorney for Petitioner
Kansas Insurance Department