

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

FINAL ORDER

Effective: 8-30-04

In the Matter of the Kansas Nonresident)
Insurance Agency License of)
NATIONAL CLOSING SOLUTIONS, INC.)

Docket No. 3350-SO

SUMMARY ORDER

(Pursuant to K.S.A. 2003 Supp. 40-4909 and K.S.A. 77-537)

Pursuant to authority granted to the Commissioner of Insurance (“Commissioner”) by K.S.A. 2003 Supp. 40-4909, the Commissioner hereby imposes sanctions against license of Kansas nonresident insurance agency National Closing Solutions, Inc., by way of Summary Order as provided by K.S.A. 77-537.

Findings of Fact

The Commissioner has been shown the following facts:

1. Records maintained by the Kansas Insurance Department (“KID”) indicate that Respondent is licensed as a nonresident agency to transact the business of insurance in the State of Kansas, and has been so licensed since January 16, 2003.
2. KID records reflect a legal and mailing address for Respondent of 12808 West Airport Blvd, Suite 300, Sugar Land, TX 66478, and reflect that Loretta Winstel is the designated person.
3. KID records reflect that Respondent holds agency appointments for Kansas with Old Republic National Title Insurance Company (“Old Republic”) and Stewart Title Guaranty Company (“Stewart”).

4. KID records further reflect that KID mailed to Respondent a standard packet of information for newly licensed title insurance agencies outlining filing requirements for rates and bonds on or about January 17, 2003.

5. Respondent failed to file rates and a bond or respond otherwise to the correspondence.

6. By letter dated June 21, 2004, KID demanded compliance within 15 days.

7. At or about the same time, KID requested that the companies provide a list of policies Respondent sold on Kansas risks.

8. The response from Old Republic reflects that one policy sold by Respondent on a Kansas risk was issued on November 5, 2002.

9. In addition, the Old Republic report lists 633 other policies sold by Respondent on Kansas risks.

10. The Stewart report lists 288 policies sold or re-issued by Respondent on Kansas risks from January 2004 through May 2004.

11. Under cover letter dated July 7, 2004, Respondent filed rates and charges and a bond.

12. In the same letter, Respondent stated that the bond was acquired in February 2003 but never filed and acknowledged sales of 822 policies in Kansas.

Applicable Law

13. K.S.A. 2003 Supp. 40-4905(a) provides, in relevant part, “[I]t shall be unlawful for any person to sell, solicit or negotiate any insurance within this state unless such person has been issued a license as an insurance agent in accordance with this act.”

14. K.S.A. 2003 Supp. 40-4909(a) provides, in relevant part:

“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: . . . (2) Violated: (A) Any provision of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, or any rule and regulation promulgated thereunder . . .” K.S.A. 2003 Supp. 40-4909(a).

15. A title insurance agent that handles escrow, settlement, or closing accounts must file either a surety bond that meets statutory requirements or an irrevocable letter of credit in a form acceptable to the Commissioner to secure the agent’s performance of its obligations. K.S.A. 40-1139

16. “. . . Every insurance agent, agency or company authorized to transact title insurance in this state shall file with the commissioner every manual of classification, rules and rates, every rating plan, every rate card and every modification of the foregoing which may be used in connection with providing title insurance or other services in connection with real estate transactions on property located in counties having a population of 10,000 or more. No charge may be made by any title insurance agent, agency or company that has not been filed with the commissioner as required by this section. . . .” K.S.A. 40-952(c).

17. The commissioner may censure the licensee or impose an administrative penalty of \$500 per violation up to a maximum of \$2500 for the same violation occurring within six calendar months from the date of the original violation, or \$1000 for a knowing violation up to \$5000 for the same violation within six calendar months, in lieu of taking any action under subsection (a). K.S.A. 2003 Supp. 40-4909(h).

Conclusions of Law

18. The Commissioner has jurisdiction over Respondent as well as the subject matter of this proceeding, and such proceeding is held in the public interest.

19. The Commissioner concludes, based on KID records and data provided by companies Respondent represents, that Respondent sold the title insurance policy issued in November 2002 prior to being licensed in Kansas, in violation of K.S.A. 2003 Supp. 40-4905(a).

20. The Commissioner concludes, based on KID records and data provided by companies Respondent represents, that Respondent sold and collected premium for an additional 821 policies issued in Kansas without having filed its rates and charges with KID, in violation of K.S.A. 40-952(c).

21. The Commissioner concludes that Respondent's agent license may be revoked or suspended pursuant to K.S.A. 2003 Supp. 40-4909(a)(2)(A) as a result of violations of provisions of chapter 40 of the Kansas Statutes Annotated.

22. The Commissioner, however, concludes that the interests of insurers and protection of the insurable interests of the public are adequately served by a monetary penalty.

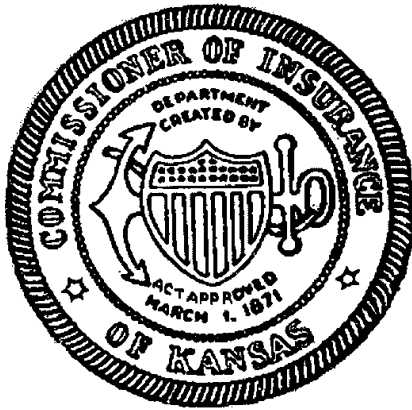
23. The Commissioner concludes, pursuant to K.S.A. 2003 Supp. 40-4905(a) and 40-4909(h), that Respondent should pay a monetary of \$1000 for selling, soliciting or negotiating insurance in Kansas without having been issued a license.

24. In addition, the Commissioner concludes, pursuant to K.S.A. 40-952(c) and 40-4909(h), that Respondent should pay monetary penalties as follows: \$5000 for sales during the six-month period of January 1, 2003, through June 30, 2003; \$5000 for sales during the six-month period of July 1, 2003, through December 31, 2003; and \$5000 for sales from January 1, 2004, to date.

25. Based on the facts and circumstances set forth herein, it appears that the use of summary proceedings in this matter is appropriate, in accordance with the provisions set forth in K.S.A. 77-537(a), in that the use of summary proceedings does not violate any provision of the law and the protection of the public interest does not require the KID to give notice and opportunity to participate to persons other than National Closing Solutions, Inc.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT Kansas nonresident insurance agency National Closing Solutions, Inc., is hereby ordered to pay an administrative penalty of **\$16,000 (sixteen thousand dollars and no cents)** on or before the effective date of this order. In the event that the penalty is not paid by the effective date of this order, Respondent's Kansas nonresident insurance agency license shall be suspended until such time as the penalty is paid in full. It is further ordered that Respondent shall **CEASE AND DESIST** from engaging in the sale, solicitation, or negotiation of title insurance business covering risks within the state of Kansas in violation of any of the provisions of chapter 40 of the Kansas Statutes Annotated.

IT IS SO ORDERED THIS 10th DAY OF AUGUST, 2004, 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

NOTICE: In the event the Petitioner files a petition for judicial review, the agency officer designated pursuant to K.S.A. 77-613(e) to receive service of a petition for judicial review on behalf of the KID is John W. Campbell, General Counsel, Kansas Insurance Department, 420 S.W. 9th St., Topeka, KS 66612-1678.

Certificate of Service

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing **Notice** and **Summary Order** on this _10th_ day of August 2004, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Loretta Winstel
12808 West Airport Blvd, Suite 300
Sugar Land, TX 66478

With a courtesy copy addressed to the following:

Priscilla Kearns
Compliance Manager
12808 West Airport Blvd
Suite 300, Sugar Land, TX 66478

_s/ Brenda J. Clary _____
Brenda J. Clary

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NOTICE OF SUMMARY ORDER

Notice is hereby given that the attached Summary Order will become effective fifteen (15) days after service of this Notice unless Respondent files with the Kansas Insurance Department (“KID”) a written request for a hearing, as provided by K.S.A. 77-542. In the event a hearing is requested, the attached summary order will serve to give notice of the allegations upon which KID bases its proposed action.

A request for hearing should be directed to John W. Campbell, General Counsel, Kansas Insurance Department, 420 S.W. 9th Street, Topeka, KS 66612.

Any costs of an administrative hearing may be assessed against an agent who is the subject of the hearing as provided by K.S.A. 40-4909(f).

If a hearing is not requested, this Summary order shall become effective as a Final Order, without further notice, on the first business day after the expiration of the fifteen-day period (eighteen if noticed is served by mail) for requesting a hearing. The Final Order will constitute final agency action in this matter.

Dated this ___ day of July 2004.

Brenda J. Clary
Staff Attorney
Kansas Insurance Department