

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

FINAL ORDER

Effective: 7-26-04

In the Matter of the Kansas Nonresident)
Insurance Agent's License of)
MICHAEL P. MORIARTY and)
The Kansas Nonresident)
Insurance Agency License of)
NORTHLAND TITLE SERVICES, L.L.C.)

Docket No. 3346-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 sanctions Kansas nonresident insurance agent Michael P. Moriarty and the nonresident insurance agency Northland Title Services, L.L.C., 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 Moriarty is licensed as a nonresident agent to transact the business of title insurance in the State of Kansas, and has been so licensed since October 17, 2003.

2. KID records reflect a legal address for Moriarty of 7800 North Norton Court, Kansas City, Missouri, and a mailing address of 104 NE 72nd Street, Suite G, Gladstone, MO 74118.

3. Records maintained by the Kansas Insurance Department ("KID") indicate that Northland Title Services, L.L.C. ("Northland"), is licensed as a nonresident agency to transact the business of title insurance in the State of Kansas, and has been so licensed since October 17, 2003.

4. KID records reflect a legal and mailing address for Northland of 104 NE 72nd Street, Suite G, Gladstone, MO 74118.

5. KID records further reflect that Moriarty is the only licensed agent associated with the agency.

6. At the time Respondents were issued licenses, KID mailed a packet of information regarding bond and filing requirements of title insurance agencies to Respondents at their address of record.

7. When Respondents had not filed the requested information by June 21, 2004, KID mailed a demand for compliance.

8. In response, Respondent Moriarty telephoned KID policy examiner Marty Hazen and indicated that he was unaware of the requirements but had not sold title policies in Kansas.

9. According to Stewart Title Guaranty Company, Respondents have placed a total of eight Kansas policies, of which two have been issued and six are pending.

Applicable Law

10. K.S.A. 40-952(c) provides, in relevant part:

“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).

11. 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.

12. “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 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).

13. In lieu of taking any action under subsection (a), 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. K.S.A. 2003 Supp. 40-4909(h).

14. The Commissioner may revoke or suspend any license issued under the Insurance Agents Licensing Act if the Commissioner finds that the insurable interests of the public are not properly served under such license. K.S.A. 2003 Supp. 40-4909(b).

Conclusions of Law

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

16. The Commissioner finds, based on the fact that Moriarty is the sole agent associated with the agency, that the acts of the agent and the acts of the agency are indistinguishable for purposes of this action.

17. The Commissioner finds, based on KID records, that Respondents are authorized to transact title insurance business in Kansas but nevertheless have not filed the information required by K.S.A. 40-952(c) or the bond required by K.S.A. 40-1139.

18. The Commissioner further finds, based on the information provided by Stewart Title Guaranty Company, that Respondents have transacted title insurance business in Kansas at least eight times.

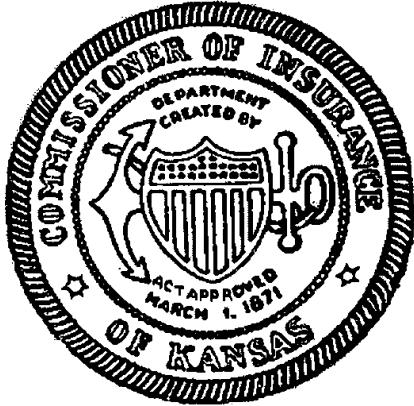
19. The Commissioner finds that Respondent's agent license may be revoked or suspended pursuant to K.S.A. 2003 Supp. 40-4909(a)(2)(A) as a result of violations of a provision of chapter 40 of the Kansas Statutes Annotated.

20. The Commissioner, however, concludes that the interests of insurers and protection of the insurable interests of the public are adequately served by a lesser sanction.

21. 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 Michael P. Moriarty and Northland Title Services, Ltd.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT Kansas nonresident insurance agent Michael P. Moriarty and Northland Title Services, Ltd., jointly and severally, are hereby ordered to pay an administrative penalty of **\$2500 (two thousand five hundred dollars)** on or before the effective date of this order, which shall be fifteen days after the date of personal service or eighteen days after the date of service by mail. In the event that the penalty is not paid by the effective date of this order, Respondents' Kansas nonresident insurance agent's and agency licenses shall be suspended until such time as the penalty is paid in full.

IT IS SO ORDERED THIS 6th DAY OF JULY 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 6th day of July 2004, by causing the same to be deposited in the United States Mail, first class postage prepaid, addressed to the following:

Michael P. Moriarty
Northland Title Services, L.L.C.
104 NE 72nd Street, Suite G
Gladstone, MO 74118

/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 Respondents file 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, upon the expiration of the fifteen-day period for requesting a hearing. The Final Order will constitute final agency action in this matter.

Dated this 6th day of July 2004.

_s/ Brenda J. Clary _____
Brenda J. Clary
Staff Attorney
Kansas Insurance Department